

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT



FINAL REPORT

for

Cape Verde WTO Accession Project under The Doha Project for WTO Accession and Participation

Contract PCE-I-00-98-00013-00, Task Order 14

Project Start Date: January 2003

Project End Date: December 2005

USAID/DC CTO: Nick Klissas

USAID/DC CO: Darlene Bullock

Report Prepared by: Booz Allen Hamilton

Report Submitted by Booz Allen Hamilton, 8283 Greensboro Drive, McLean, Virginia 22102

Contact Person: Norm Kirsch, Program Manager, Booz Allen, Telephone (703) 902-5896, Facsimile (703) 917-2379, email kirsch_norm@bah.com

Booz | Allen | Hamilton

delivering results that endure

Cape Verde - Final Report Table of Contents

I.	Executive Summary	3
II.	Project Background	
	A. Project Startup.....	5
	B. Preparation and Implementation of Accession Master Plan	6
	C. Procedural Assistance in Accession	7
	D. Coordination with Donors, Governments, Institutions, and Agencies	8
	E. Short-Term Consultative Services.....	9
	F. Training.....	11
	G. Research Intern Program.....	12
	H. Public Information	12
III.	Project Closedown, Accession Status, and Projected Membership	
	A. Project Closedown	13
	B. December 2005 Accession Status	13
	C. Projected Membership – 2006.....	14
IV.	Project Performance	
	A. Memorandum of Foreign Trade Regime	14
	B. ACC Documents	15
	C. Legislative Action Plans.....	15
	D. Working Party Meetings	16
V.	Market Access Negotiations	
	A. Goods Offer.....	18
	B. Services Offer.....	18
VI.	Factual Summary	19
VII.	Draft Working Party Report.....	19
VIII.	Deliverables	
	A. General Objective	19
	B. Specific Objectives.....	20
IX.	Capacity Building and Technical Assistance.....	21
X.	Conclusion	22
XI.	Recommendations.....	22

ANNEXES

Annex A: ACC Documents and Legislative Action Plans

Tables 1 – 10: ACC 4 (Agriculture)	23
Tables 11 – 13: ACC 5 (Services)	32
Table 14 : ACC 8 (TBT/SPS)	72
Table 15: ACC 9 (TRIPS).....	81
Table 16: General Legislative Action Plan.....	100
Table 17: Customs Valuation Action Plan.....	101
Tables 18-19: Industrial Property Code Action Plan.....	107
Table 20: TBT Action Plan.....	110
Table 21: SPS Action Plan.....	111
Table 22: Arbitration Law Action Plan	114

Annex B: Cape Verde WTO Accession Status.....	115
---	-----

Annex C: Market Access Road Map (United States)	117
---	-----

Annex D: Services Request by the United States	122
--	-----

I. Executive Summary

The Government of Cape Verde submitted a request for accession in 1999. Cape Verde's request for accession was circulated on 11 November 1999, and the General Council of the World Trade Organization (WTO) established a Working Party on 17 July 2000.

A draft Memorandum of Foreign Trade Regime (MFTR) was informally submitted to the WTO Secretariat in late 1999 or early 2000. The MFTR was incomplete, and the WTO Secretariat returned the MFTR with comments and suggestions on proper completion of the Memorandum. Little was done vis-à-vis the MFTR between 2000 and the creation of the USAID DOHA Project.

At the DOHA Ministerial Conference of the WTO in November 2001, leaders of Developing Countries (DCs) and Least Developed Countries (LDCs) asserted that such countries do not have the resources to undertake the arduous task, both in terms of money and talent, of becoming Members of the WTO. The Doha Declaration impressed upon world leaders that DSc and LDCs require a great deal of technical support and assistance in order to implement national trade regimes harmonious with WTO obligations.

The Doha Declaration resulted in a US Government commitment to assist developing countries and transition countries. Thus, the Doha Project was created by USAID. The first country selected under the Doha Project was Cape Verde, and was called the USAID WTO Accession Project for Cape Verde, Booz Allen Hamilton administers this project.

Booz Allen Hamilton project launched on solid ground in mid-January 2003. Ben Irvin was chosen as Chief of Party. Ben Irvin arrived in Praia, Cape Verde in mid January 2003. Appropriate office space was located, and project staff hired. The USAID BAH WTO Office opened on February 11, 2003. A Work Plan was immediately drafted and forwarded to USAID and BAH.

The Chief of Party met with the Minister of Economy, Growth and Competitiveness, Bonifacio Lopes. The result of this meeting was that a target date of March 31, 2003 was established for a draft Memorandum of Foreign Trade Regime. There was some discussion of the reasonableness of such an early date. A decision was made that Cape Verde would use English as the language of WTO activities. Nonetheless, the BAH WTO office in conjunction with the Cape Verde WTO Work Group delivered, on March 31, 2003, to Minister Lopes a draft MFTR. The Memorandum was circulated to various Cape Verdean ministries for comments and suggestions. The comments and suggestions were incorporated into a current draft, and then translated into Portuguese, and submitted to the

Council of Ministers for approval. Many Members of the Council of Ministers did not have sufficient command of English to read and approve the MFTR.

On June 13, 2003, the Council of Ministers gave their approval to the MFTR, and the document was forwarded to Geneva. On 1 July 2003, the WTO Secretariat circulated the Cape Verde MFTR to all WTO Members (WT/ACC/CPV/3).

The submission of the MFTR, in reality, signaled the beginning of a long and arduous work program. So as to accelerate the accession process, the BAH WTO Team and the Cape Verde WTO Group (under the leadership of Ms. Josiane Ramos) immediately commenced work on required WTO documentation, commonly referred to as ACCs.

Draft ACCs were prepared as follow: ACC/4 – Agriculture; ACC/5 – Services; ACC/8 – Sanitary & PhytoSanitary Measures (SPS); and ACC/9 – Trade Related Aspects of Intellectual Property Rights (TRIPS).

All of the above-mentioned ACC documents were completed, approved and forwarded to the WTO Secretariat, and forwarded to WTO Members, prior to the first meeting of the Working Party on the WTO Accession of Cape Verde.

Simultaneous with work on the ACC, the BAH WTO Team and the Cape Verde WTO Work Group started drafting Action Plans. Action Plans are documents that set forth specific legislative and regulatory initiatives and reforms needed to bring Cape Verde's regime into conformity with WTO principles and requirements. Action Plans specify the subject actions to be taken, including milestones and dates for completion and implementation of the promised actions. The Cape Verde Action Plans were drafted by the BAH WTO Team and approved by the WTO Coordinator, as well as Minister Lopes.

Six Action Plans (General Legislative; TRIPS; Arbitration Law; Technical Barriers to Trade; Sanitary and PhytoSanitary Measures; and the Customs Code, including the Customs Valuation Agreement) were prepared.

All of the above-mentioned Action Plans were completed, approved and forwarded to the WTO Secretariat, and disseminated to WTO Members, prior to the first meeting of the Working Party on the WTO Accession of Cape Verde.

The 1st Working Party Meeting was held on 26 March 2004. Member countries of the Working Party welcomed the start of Cape Verde's accession activities. Many positive comments and many questions about Cape Verde's MFTR were raised, principally by the European Union and the United States. At the conclusion of the meeting, Chairman Shark asked that questions be submitted to the WTO Secretariat by the end of April 2004.

Subsequently, the United States submitted 154 questions to Cape Verde, and the European Union submitted 133 questions. The Cape Verde WTO Work Group and the BAH WTO Team worked collectively in preparing responses to the questions.

Unfortunately, the original Coordinator of the WTO Work Group returned to her university to complete work on her Master's Degree. A new Cape Verde Coordinator

(Dr. Francisco Correia) was selected. At or about the same time, Minister Lopes resigned as Minister of Economy, and Minister Joao Silva was appointed. These two factors caused a slow down in the progress of the WTO Accession work program.

Regardless, all of the work needed for a 2nd Working Party Meeting was completed and forwarded to the WTO Secretariat prior to the 8 December 2004 session. This Working Party Meeting did not go well for Cape Verde. Various anomalies and inconsistencies in information disclosed to the Working Party were discovered and questioned. This resulted in many additional questions from the European Union and the United States.

Minister Silva ordered the Cape Verde WTO Coordinator and WTO Work Group to resolve these anomalies and inconsistencies. Intense effort was put forth in identifying the problem areas, revoking certain regulatory directives, and drafting WTO conforming laws and regulations. All of this work was completed quickly.

A 3rd Working Party Meeting was held on 14 July 2005. Working Party Chairman David Shark exhorted the Cape Verde delegation to accelerate the fact finding process and commence market access negotiations. The 3rd WP Meeting went well with some questions and issues pending. The Cape Verde Delegation promised to accelerate its accession work program and expressed the hope for a Final Working Party Meeting before the end of the year.

An informal Working Party Meeting was held on December 6, 2005. The European Union and the United States both expressed concern with Cape Verde's (1) lack of substantial progress; (2) draft Industrial Property Law that did not conform to the WTO TRIPS Agreement; (3) some unresolved Services issues; and, (4) Goods Offer.

The USAID WTO Project Office in Praia was closed on December 15, 2005.

II. Project Background

A. Project Startup

As noted above, the USAID WTO Accession Project for Cape Verde started in mid January 2003. Immediate steps were taken to lease suitable office space, office equipment, hire an office manager, 2 translators and an attorney. These steps were taken and put in place by early March.

Meetings were held with Minister of Economy Lopes, the WTO Coordinator Josiane Ramos and the entire WTO Technical Team. The outcome of these meetings was an assignment from Minister Lopes to have a draft Memorandum of Foreign Trade Regime to him by March 31, 2003. This deadline was met.

B. Preparation and Implementation of Accession Master Plan

Shortly after the arrival of the COP, meetings were held with US Ambassador Donald Johnson and US Embassy Commercial Officer Veronica Martins. Also, the COP met with Cape Verde Minister of Economy Bonafacio Lopes, and officials involved with the WTO Accession Process.

One of the first orders of business was the preparation of a WTO accession work plan. This task was expeditiously completed and submitted to Booz Allen Hamilton and USAID. All of the major steps (as outlined below) were completed except for completion of market access negotiation, finalization and approval of the Working Party Report, and preparation of the Protocol of Accession by the WTO Secretariat.:

<u>Document/Activity</u>	<u>Date Completed</u>
Memorandum (draft)	April 1, 2003
Memorandum (approved by Council of Ministers)	Early June 2003
Memorandum (forwarded to WTO)	June 15, 2003
Memorandum (circulated to Members)	July 1, 2003
ACC/4 – Agriculture (drafted)	July – December 2003
ACC/4 –submitted to WTO	January 2004
ACC/4 – circulated to Members	14 January 2004
Revised ACC/4 – to WTO	13 June 2005
ACC/5 – Services (drafted)	July – December 2003
ACC/5 – Services (to WTO & circulated)	14 January 2004
ACC/8 – SPS/TBT (drafted)	July to December 2003
ACC/8 – SPS/TBT (to WTO & circulated)	14 January 2004
ACC/9 – TRIPS (drafted)	July to December 2003
ACC/9 – TRIPS (to WTO & circulated)	14 January 2004
Legislative Action Plans	
- General (drafted)	July to December 2003
- SPS/TBT (drafted)	July to December 2003
- Customs Valuation (drafted)	July to December 2003
- TRIPS (drafted)	July to December 2003
- Customs Law (drafted)	July to December 2003
Revised Action Plans (circulated to Members	25 March 2004
22 June 2004	
10 June 2005	
6 April 2004	
12 July 2004	
20 July 2005	
Questions & Responses	10 February 2004

24 March 2004	
25 March 2004	
13 June 2005	
15 June 2005	
11 October 2005	
Market Access Negotiations	
- Goods Offer (circulated to Members)	2 November 2004
	4 July 2005
- Services Offer (circulated to Members)	1 November 2004
	1 June 2005
Factual Summary (circulated to Members)	25 October 2004
Draft Working Party Report (circulated to Members)	8 November 2005
Working Party Meetings	26 March 2004
	8 December 2004
	14 July 2005

Activities Remaining to be Completed

As stated above, the activities to be completed are (1) Market Access negotiations; (2) finalization and approval of the Working Party Report; and (3) [preparation of the Protocol of Accession.

Market Access Negotiations

Goods – Ongoing negotiations are nearing completion with the European Union and the United States. Negotiations have been completed with Japan, China, Canada, Honduras, Panama and the Dominican Republic.

Services – Ongoing negotiation are nearing completion with the European Union and the United States. Services negotiations were completed with Canada and Japan.

C. Procedural Assistance in Accession

As noted in Section A, the Booz Allen Hamilton USAID Project for the WTO Accession of Cape Verde played an important and vital part in the process.

Virtually every document prepared and submitted to the WTO Secretariat was drafted with the “hands-on” assistance of the Project staff. Specifically, this includes the Memorandum of Foreign Trade Regime, the WT/ACC documents (ACC/4-Agriculture; ACC/5- Services; ACC/8-TBT & SPS; and ACC/9-TRIPS) and subsequent revisions, all of the various Action Plans, responses to the questions raised by the European Union, the United States, Australia, Canada

and Japan), The Factual Summary was analyzed by the Project staff and comments, corrections and/or additions were coordinated with the Cape Verde WTO Negotiating Team.. Likewise, the Draft Working Party Report was reviewed by the Project staff and comments, law citations, regulation numbers, corrections and corrective additions were coordinated with the Cape Verde WTO Negotiating Team.

The Booz Allen Hamilton USAID Project staff prepared briefing books and materials for the 3 Working Party meetings. This included questions likely to be asked, draft responses to probably questions, and in general preparing the 5-person Negotiating Team for the Working Party meetings in Geneva.

And finally, the Project staff assisted in the preparation of Market Access documentation, including the offers on Services as well as for Goods.

A library of relevant WTO documents was created for the use of the Cape Verde 20-person WTO Work Group. The Booz Allen Hamilton USAID Project staff created a library of Cape Verde laws, regulations, and proclamations cited in the Memorandum of Foreign Trade Regime, Action Plans, responses to questions, draft laws and regulations, etc. The “legal” library was in Portuguese (the language of Cape Verde) as well as in English (the language selected by the Government of Cape Verde for WTO negotiations).

D. Coordination with other Donors, Governments, Institutions and Agencies

1. Coordination with Government of Cape Verde

The level of cooperation between the USAID Project and Cape Verde officials was excellent. Minister Lopes provided the necessary policy guidance, and interacted with the Cabinet of Ministers. The WTO Coordinator Josiane Lopes was given office space in the USAID WTO office and worked closely with the Booz Allen staff. Work assignments to the Cape Verde Technical Team was developed and funneled through Ms. Ramos, with deadlines for completion.

Input from the CV Technical team was then given to COP Ben Irvin and US attorney advisor Marjorie Florestal, and the bulk of the drafting of the Memorandum of Foreign Trade Regime (MFTR) was done by them. Ms. Ramos reviewed the initial draft MFTR, and then the draft was circulated to the CV Technical Team. Suggestions, comments and corrections were then incorporated, and the draft MFTR was presented to Minister Lopes of March 31, 2003.

Mr. Ramos left the project and Cape Verde in November 2003, and Minister Lopes appointed Mr. Francisco Correia as the WTO Coordinator. Cooperation and coordination between the BAH WTO office and the Ministry of Economy continued at a steady pace, with Mr. Correia coming on an as-needed basis to the USAID WTO office for BAH input into questions from the European Union and the United States. This condition existed until the project closed in December 2005. Minister Lopes was replaced in 2004 by Minister Jao Pereira Silva. Minister

Silva was interested in the WTO accession but deferred to Mr. Correia for most policy decisions and day to day activities.

2. Coordination with U.S. Embassy

Cooperation with the U.S. Embassy in Praia was outstanding. Ambassador Donald C. Johnson provided excellent leadership, guidance, and suggestions. Ms. Veronica Martins, the Commercial Officer also was outstanding. There was a meeting every Tuesday afternoon in the Ambassador's office to review progress, map future strategy, and in general assist the USAID WTO accession project. Without this assistance, the project could not have progressed at the fast pace that it did.

3. Coordination with WTO Secretariat

Mr. Cato Adrian of the WTO Accessions Division was the official in charge of the Cape Verde WTO accession. Mr. Adrian provided total cooperation and responded to any and all requests for information, guidance and documents needed. He was especially helpful in providing input and assistance in preparations for Working Party Meetings.

The Chairman of the Working Party for Cape Verde was David Shark of the United States. Although this was his first assignment as a Working Party chairman, he performed in an exemplary manner at all of the Working Party Meetings. He facilitated the exchange of information with the WTO Secretariat and other Working Party Countries.

Below is a news clip from the WTO website on Cape Verde's accession:

Chairman urges intensification of Cape Verde negotiations

The Chairman of the Accession Working Party, Mr. David Shark, on 14 July 2005 commended Cape Verde's efforts during the past few months to accelerate its accession process.

4. Coordination with USTR (Geneva and Washington)

Cooperation between the USAID WTO Office in Praia and USTR (both in Geneva and Washington) was extraordinary. In Geneva, Ms. Rachel Strub was extremely helpful and cooperative when guidance and information was necessary and requested. At USTR in Washington, Ms. Cecilia Klein was the contact person. Ms. Klein's assistance and cooperation was above and beyond the call of duty. Without her insights, helpful hints and assistance, Cape Verde's accession progress would not have been as far advanced as it now is.

E. Short-Term Consultative Services

Accession to the WTO requires conformity to nearly 30 agreements and understandings. At the onset of the Booz Allen Hamilton USAID Project, the Chief of Party was assisted by an American lawyer with in-depth experience gained from working at the United States Trade Representative's Office. Ms. Marjorie Florestal worked on the Cape Verde WTO Accession

Project from January 2003 until May 2003. She was instrumental in assisting in the drafting of the Memorandum of foreign Trade Regime.

Cape Verde lacked an organizational structure that would support the WTO accession process. A short term expert (Irving Williamson) was hired to perform a study of the Cape Verde Government's policy making structure, and suggest a modern, efficient system to accomplish coordinated decision making vis-à-vis the WTO accession process.

In May 2003, Mr. Williamson conducted his study and submitted a report that recommended a two tiered structure. The first tier was a "core group" or a WTO Coordinating body. This group interfaced with the Ministers of Economy and Foreign Affairs. The second tier was a (technical group," consisting of knowledgeable persons from governmental entities have an interest and/or involvement with the WTO and the 30 WTO Agreements. Mr. Williamson's recommendations were adopted, and incorporated into the WTO accession structure of Cape Verde.

After the submission of the Memorandum, it became obvious that Cape Verdean personnel working on the WTO accession needed instruction and education in the area of Services. Mr. David Luft came to Cape Verde and conducted in-depth training and seminars on Services. His input and efforts resulted in the draft of ACC/5 on Services.

The Chief of Party needed assistance in the agriculture area, specifically relating to the WTO form ACC/4, relating to agriculture, Cape Verde's domestic support program to agriculture, and to the extent existing, export subsidies for agricultural products. Mr. Tony Whitehead was a great asset to the advancement of the WTO accession process. At the conclusion of Mr. Whitehead's visit, and with the help of the Agriculture Ministry's staff, an ACC/4 was drafted and pushed forward for review and concurrence by officials.

Although Mr. David Weinstein did not come to Cape Verde, he provided excellent short term assistance in drafting a modern, comprehensive Industrial Property Law, and suggested revisions to the Cape Verde Copyright Law. Mr. Weinstein also reviewed draft responses to intellectual property question raised by the European Union and the United States.

Subsequent to specific questions about Cape Verde's Sanitary and Phytosanitary measures enforcement, Mr. Willem Marsman came to Praia to work with governmental officials in drafting a comprehensive set of regulations dealing with sanitary and phytosanitary measures. A set of standards and draft guidelines for appropriate regulations were provided by Mr. Marsman with governmental officials.

And last, Ms. Laurie Sherman (formerly of the United States Trade Representative's Office) came to Cape Verde to assist with the formatting and preparation of the Services Offer for negotiations. Ms. Sherman worked with the Cape Verde Coordinating Group in preparing a 50-page Services Offer that was submitted to the WTO Secretariat.

F. Training

Training was a main area of focus by the BAH USAID Project. Training was a 2-pronged activity: (a) seminars and workshops; and (b) on-the-job training.

The Project conducted seminars/workshops on the following WTO subject areas:

1. Services.

David Luft conducted an intensive 2-week seminar on the theory of services, how to prepare document ACC/5, identification of service areas of interest for Cape Verde for negotiation and liberalization, and how to prepare responses to Services questions from Working Party Members.

2. Technical Barriers to Trade/Sanitary & Phytosanitary (TBT/SPS)

Anthony (Tony) Whitehead provided one-on-one TBT and SPS training, as well as on-the-job training to Cape Verde personnel working in the TBT/SPS areas of the WTO Accession process. Mr. Whitehead worked closely with people from MAP (Ministry of Agriculture) in drafting WTO document ACC/4 and the supporting schedules outlining domestic support for agriculture, and export subsidies for Cape Verdean agricultural products.

3. Customs Law

Ben Irvin provided in-depth guidance and advice on Customs issues, including the WTO agreements on Customs Valuation, Preshipment Inspection, Rules of Origin, GATT Articles, 5, 8 and 10 on Transit, fees and transparency, and on the World Customs Organization revised Kyoto Convention (1999), International Convention on the Harmonization and Simplification of Customs Procedures. Mr. Irvin also drafted a model Customs Law for Cape Verde Customs Administration that is a new, modern and comprehensive law, in conformity with WTO and WCO principles.

4. Trade Related Intellectual Property Rights.

David Weinstein was actively involved in the Industrial Property and Copyright area. He assisted in the preparation of ACC/9, a checklist of TRIPS related laws and regulations in Cape Verde, assisted in the preparation of the draft responses to Intellectual Property questions from the European Union and the United States. And, Mr. Weinstein (upon the request of the Chief of Party) drafted an Industrial Property Law (based on the 2003 industrial Property Law of Portugal), and proposed revisions to the Cape Verde 1990 Copyright Law.

5. Technical Barriers to Trade & Sanitary & Phytosanitary – Regulations

Willem Marsman delivered a workshop on mainly SPS measures, and discussed how to establish a TBT program. Mr. Marsman's workshop covered SPS testing procedures, laboratory

requirements, and drafting regulations on the broad aspects of SPS measures. Mr. Marsman was in Cape Verde for a 2-week period, and provided guidelines for drafting SPS regulations, and outlined what would be required for the establishment of a TBT agency.

6. WTO Work Group Training

The Booz Allen Hamilton USAID Project Team met on a regular basis (usually monthly) to review work progress, status of activities to be accomplished, and to conduct general WTO training. This consisted of a brief presentation on one of the WTO Agreements (such as Services, TRIPS, Customs Valuation, Rules of Origin, Agriculture, anti-dumping, subsidies and countervailing measures, etc.) followed by an in-depth question and answer session. The WTO Work Group consisted between 20 and 25 persons working in the various ministries involved in the WTO Accession process. The private sector was represented by staff members from the Cape Verde Chambers of Commerce.

G. Research Intern Program

Cape Verde is a relatively small island nation consisting of approximately 435,000 people. Unfortunately, Cape Verde has no universities or a law school. Cape Verde students travel to Portugal, Brazil, Cuba, the United States and other countries to obtain their bachelor degrees, and/or post graduate degrees in law, economics, medicine, etc.

Consequently, the Project was unable to establish a Research Intern Program. In fact, graduates with economic and law degrees refused to work as interns even though this experience would enhance future opportunities.

The best alternative was to use and train the 20 to 25 person WTO Work Team as the next generation of trade experts for Cape Verde. This approach worked extremely well as the Cape Verde Work Team, starting with little to no knowledge of WTO principles, developed into a fairly knowledgeable group.

H. Public Information

The Booz Allen Hamilton USAID Project took a pro-active approach to public information. The general level of knowledge in Cape Verde vis-à-vis WTO was very limited. Many people did not understand how WTO Membership would help Cape Verde. Even members of the government and the parliament thought that WTO Membership would harm rather than help the Cape Verde economy. Thus, the Project conducted seminars and workshop to present the advantages and disadvantages to Cape Verde of WTO membership.

The Cape Verde Economist Association desired to learn more about the WTO, the WTO accession process, and the advantages/disadvantages of WTO membership. The Project Chief of Party prepared a Power Point presentation on various aspects of the WTO. The first presentation

was at the 2003 Annual Meeting of the Economist, and a follow-on WTO presentation was given at the 2004 Annual Meeting of the Economists Association.

The President of the Cape Verde Architects Association asked for a meeting with the Project. The concern was that the opening of Cape Verde's services sector would be harmful to Cape Verde architects. A lengthy meeting, plus follow-up meetings, ensued with in-depth discussions of services negotiations, and liberalization of the various service sectors. Although the Architects Association was still concerned about foreign competition, they were pleased with the prospects of the opening of WTO Member countries architect service sectors to Cape Verdean architects.

The Project scheduled regular and periodic meetings with the private sector, mainly with the Cape Verde Chambers of Commerce. Cape Verde has 2 Chambers of Commerce, one in Praia and the other in Mindelo on the island of San Vicente. Although the Chamber of Commerce had representatives on the WTO Working Team, it was deemed advisable to have regular meetings with presidents of the 2 Chambers.

The Project Chief of Party met with, and was interviewed, by reporters from local Portuguese language newspapers. The object of these interviews and subsequent articles was to educate the general public on the advantages/disadvantages of WTO Membership, to offset and repudiate negative rumors concerning the WTO and Cape Verde's accession process.

The Project met regularly with the Minister of Economy, Growth and Competitiveness so as to keep him fully briefed on the progress, status, problems and other aspects of the WTO accession process.

III. Project Closedown, Accession Status, and Projected Membership

Project Closedown

The USAID WTO Accession Project for Cape Verde closed its offices on or about December 15, 2005. Funding for this technical assistance project ran out. The furniture, office equipment, library and other property was transferred to the Ministry of Economy.

December 2005 Accession Status

The goal of the project was for Cape Verde to have completed the fact finding stage and the market access negotiations prior to the December 2005 Hong Kong Ministerial Conference. Unfortunately, that did not happen. Attachment A to this memorandum in Cape Verde's WTO Accession status.

At the early December informal Working Party meeting in Geneva, both the European Union and the United States had issues and problems that needed to be resolved. The European Union had some Services issues (audio visual being one) to be further negotiated, and the United States

asked Cape Verde to “clean up” its Goods Offer and bring the draft Industrial Property Law into conformity with the WTO TRIPS Agreement.

Subsequent to the December Meeting, both the European Union and the United States sent to the WTO Delegation about 66 questions each. No work on WTO accession has been done since the December 2005 meeting in Geneva.

Projected Membership - 2006

Assuming that funding can be found and allocated for technical assistance for Cape Verde, it is reasonable that all problems and impediments to Cape Verde’s nomination for WTO Membership can be overcome before the end of 2006. Without such technical assistance, it will be difficult for Cape Verde to complete the necessary step for WTO membership in 2006 on its own.

IV. Project Performance

A. Memorandum of Foreign Trade Regime (MFTR)

Cape Verde drafted a rudimentary Memorandum of Foreign Trade in 1999. This draft was submitted informally to the WTO Secretariat. The draft MFTR was returned to Cape Verde as being too deficient, and not in conformity with ACC 1 (the MFTR outline).

Little work was done on the Memorandum until the startup of the Doha Project for the WTO Accession of Cape Verde. Some preliminary data gathering was commenced in December 2002. With the arrival of the COP in January 2003, the Cape Verde WTO Technical Team was reorganized, a work program established, and work assignments given to the respective and responsible ministries and persons. Weekly meeting between the USAID WTO Team, the Cape Verde WTO Technical Team and the WTO Coordinator were held to ascertain progress, problems and gauge the status of the work.

A “final draft” was completed, printed, and circulated to all affected ministries and entities. Comments, suggestions and criticisms were obtained from the Technical Team members and incorporated into the “final clean copy draft.”

As promised, on March 31, 2003, the draft Memorandum of Foreign Trade Regime was delivered to Minister Bonafacio Lopes. The Memorandum was officially circulated to ministry officials for final clearance and concurrence. Thereafter, the Memorandum was forwarded to the Cabinet of Ministers for its approval. At this point, a major problem arose. Cape Verde opted to submit the Memorandum in English. Many of Cape Verde’s Ministers did not read nor comprehend English. Therefore, the Memorandum and Annexes had to be translated into Portuguese. The Booz Allen Hamilton USAID office translated the document and returned it to the Government in mid May 2003.

The Cabinet of Ministers approved the Memorandum on 13 June 2003, and it was immediately forwarded to the WTO in Geneva. The WTO Secretariat circulated the Memorandum to Members on 1 July 2003 (WTACC/CPV/3).

B. ACC Documents

(1) ACC-4 (Agriculture)

ACC-4 on Agriculture was completed by the CV Work Group in cooperation with a consultant from Booz Allen Hamilton (Anthony Whitehead) and forwarded to the WTO, and circulated to Members on 14 January 2004. A revision of ACC-4 was submitted to the WTO Secretariat and circulated to Members on 13 June 2005. ACC-4 covers agriculture issues in a country, including domestic support as well as export subsidies. Please Refer to Annex A for Supporting Tables 1 - 10.

(2) ACC-5 (Services)

ACC-5 covers various services issues in an acceding country. ACC-5 was completed by the Cape Verde WTO Work Group in cooperation with a consultant from Booz Allen Hamilton (David Luft), and forwarded to the WTO Secretariat. The document was circulated to WTO Members on 14 January 2004.

Please refer to Annex A for Tables 11 – 13, summarizing ACC5 and containing document WT/ACC/CPV/4 that was circulated to the WTO Member countries for comments and questions.

(3) ACC-8 (TBT/SPS)

ACC-8 is a “check list” covering “technical barriers to trade” and “sanitary and phytosanitary standards” in an acceding country. ACC-8 was completed by the Cape Verde WTO Group in cooperation with a consultant from Booz Allen Hamilton (Anthony Whitehead), and forwarded to the WTO. This document was circulated to Members on 14 January 2004. A copy of ACC-8 (WT/ACC/CPV/6) can be found in Annex A: Table 14.

(4) ACC-9 (TRIPS)

ACC-9 is also a “check list” of aspects of intellectual property rights provided for in Cape Verde’s current legislation. ACC-9 was completed by the Cape Verde WTO Work Group in cooperation with the Booz Allen Hamilton project team. A copy of ACC-9/ WT/ACC/CPV/5 can be found in Annex A: Table 15.

C. Legislative Action Plans

Cape Verde prepared and submitted the following Action Plans: General Legislative; Customs Law; Customs Valuation; Mediation and Arbitration Law (Annex A: Table 22); TBT & SPS

program; and, TRIPS Law (new Industrial Property Law and a revised Copyright Law. This group of Action Plans were submitted to the WTO, and circulated to Members on 25 March 2004. These Action Plans were subsequently revised and forwarded to the WTO, and circulated to Members on 10 June 2005.

Action Plans are not “static” documents. They are updated and revised as new laws and/or regulations are identified as being needed, and in preparation.

The General Legislative Action Plan (Annex A: Table 16) was revised to include all needed and pending legislation, and incorporated the Mediation and Arbitration Action Plan. The Customs Law and the Customs Valuation Action Plans (Annex A: Table 17) were combined into a single Action Plan.

Also, revisions were made to the TRIPS Action Plan (Annex A: Tables 18 – 19) as well as to the TBT/SPS Action Plan (Annex A: Tables 20 -21). These revisions were forwarded to the WTO, and circulated to Members on 12 July 2005 and 20 July 2005.

D. Working Party Meetings

(1) Working Party # 1 (26 March 2004)

At the First Working Party Meeting, the WTO Member countries on the Working Party welcomed Cape Verde’s application to join the WTO. Minister Lopes made an opening presentation emphasizing the importance for Cape Verde’s economic development and integration into the world trading system. Minister Lopes requested that Cape Verde’ membership be considered and evaluated on the basis of a Least Developed Country, in accordance with the UN criteria. The Working Party Members were impressed with the political will of Cape Verde and the tremendous effort in preparing the Memorandum, submission of ACC 4, 5, 7 and 8 as well as Actions Plans on Legislation, Customs Valuation, Technical Barriers to Trade, Sanitary and Phytosanitary and Trade Related Intellectual Property Rights.

The Working Party Members recognized and appreciated the efforts taken by Cape Verde in designing its path to accession to the WTO and making its system of laws and regulations consistent with WTO Rules. Members acknowledged the works already undertaken and submitted, but noted that further work was needed. Members pledged to work constructively with Cape Verde in accomplishing this task, and several Members offered technical assistance to facilitate Cape Verde’s accession.

Thereafter, the first meeting consisted of an examination of Cape Verde’s Memorandum, answers to questions that Cape Verde provided. As is normal in most accessions, this examination gave rise to requests for additional information. In view of the Action Plans submitted, Cape Verde was asked to provide, as and when available, copies of draft legislation.

The meeting concluded with Chairman Shark asking Members to submit questions as soon as possible, and suggested a date of not later than July 2004. Approximately 160 questions were received from the United States and about 70 questions from the European Union. Answers to all questions were submitted by Cape Verde prior to the scheduled Second Working Party Meeting.

(2) Working Party # 2 (8 December 2004)

The Second Working Party Meeting was held on 8 December 2004, and was attended by 6 Cape Verdean delegates, WTO members and observers from international organizations, as well as staff of the WTO Secretariat. Minister Silva made an opening statement that focused on Cape Verde's LDC status, efforts by the Cape Verde WTO Work Group, and progress made by since the previous Working Party meeting.

Further, Minister Silva announced that Cape Verde's status as an LDC was under study by the UN, with the possibility that Cape Verde would be upgraded to that of a Developing Country.

Thereafter, a lengthy series of questions concerning Cape Verde's import registration and licensing regime were asked. Apparently there was a difference between statements in the Memorandum and answers to questions raised by Members. Working Party Members requested clarification of Actions, specifically on Customs Valuation, TRIPS and TBT/SPS. Subsequent to this meeting, about 130 questions were received from the United States and about 55 from the European Union. Answers were submitted by the Cape Verde Delegation prior to the Third Working Party Meeting.

(3) Working Party # 3 (14 July 2005)

Cape Verde held its Third Working Party Meeting on 14 July 2005. The chairman exhorted the Cape Verdean Delegation to accelerate its accession effort and finalize its offers on Goods and Services so as to facilitate market access negotiations on goods and services. He suggested that Cape Verde focus on elements of a draft Working Party Report. The Cape Verde Delegation agreed to move forward with its accession process, and requested a "final" working party meeting before the end of 2005. The chairman stated that another Working Party Meeting would depend upon sufficient progress being made.

Additional questions were received from Australia, the European Union, Japan and the United States, and responses were submitted to the Working Party prior to the December meeting.

(4) Informal Working Party - Geneva (6 December 2005)

The Cape Verde Delegation went to Geneva during the week of December 5 – 9, 2005. The Cape Verde Delegation met with delegations from the European Union, the United States, Canada, Japan and China. These meetings essentially were bilateral negotiations on Cape Verde's goods and services offers. The European Union had some problems with the Services Offer, and those

issues are to be worked out in the future. The United States also had problems with the Services Offer. The United States requested that Cape Verde reprepare its Goods Offer, and suggested that the submitted draft Industrial Property be examined and revised to conform to the WTO TRIPS Agreement.

Cape Verde's goal of concluding its market access negotiations during this trip, and being nominated for membership at the Hong Kong Ministerial Conference was not met. This was very disappointing to the Cape Verde Delegation for various reasons: (1) the USAID WTO technical assistance project was scheduled to end (and did close) in mid December 2005; (2) parliamentary and presidential elections in Cape Verde were scheduled for January and February 2006, thus causing lack of progress on the WTO accession; and (3) a potential change in government may result in a change of the minister in charge as well as the Head Negotiator.

V. Market Accession Negotiations

A. Goods Offer

In preparing its tariff offer, Cape Verde had to take into consideration the fact that members require an acceding country to bind all of its tariff lines. Cape Verde's Customs tariff consists of over 6,000 tariff lines. Also, customs revenues account for over 60% of the national budget. Thus, loss of revenue had to be taken into consideration when preparing the tariff offer, and ultimate bindings. Thus, the strategy was to set the bound rates well above current applied rates. The objective of the bilateral negotiations was to avoid any commitment to reducing applied rates. Cape Verde needed ample leeway to respond to requests to lower their bindings while keeping their overall objective intact.

A Goods Offer was completed by the Cape Verde WTO Group in cooperation with Booz Allen Hamilton, and forwarded to the WTO. This document was circulated to Members on 2 November 2004. After initial bilateral negotiating sessions, Cape Verde revised its Goods Offer. The revised offer was forwarded to the WTO and circulated to members on 4 July 2005.

B. Services Offer

Cape Verde identified four sectors for liberalization: (1) tourism; (2) transportation; (3) telecommunications; and (4) financial services. The initial Services Offer was prepared in accordance with Cape Verde's developmental policies aimed at attracting foreign investment.

A Services Offer was completed by the Cape Verde WTO Group in cooperation with a Booz Allen Hamilton consultant (Laurie Sherman), and forwarded to the WTO. This document was circulated to Members on 1 November 2004. After initial bilateral negotiating sessions, Cape Verde revised its Services Offer. The revised offer was forwarded to the WTO and circulated to members on 1 June 2005.

In view of perceived problems with Cape Verde's Services Offer by the European Union and the United States, a revised Services Offer (or perhaps a Services Schedule) will be prepared subsequent to bilateral negotiations. It is unknown when these bilaterals will be conducted.

VI. Factual Summary

A draft Factual Summary, dated 25 October 2004, was received by the Cape Verde WTO Work Group. This document was closely reviewed by the Cape Verde WTO Work Group (especially Dr. Francisco Correia) and the BAH USAID WTO project team (especially Ben L. Irvin). Comments, corrections and revisions were forwarded to the WTO in late 2004 or early 2005.

Subsequently, a follow-up Factual Summary was received by the Cape Verde WTO Work Group. The date of receipt is unknown by this memo writer. However, Dr. Correia and Ben L. Irvin worked on the revised Factual Summary, and it was forwarded to the WTO Secretariat prior to the 14 July 2005 Working Party Meeting.

VII. Draft Working Party Report

The Draft Working Party Report was received in Cape Verde in June 2005. The Cape Verde WTO Working Group (mainly Dr. Francisco Correia) and the BAH WTO Team (mainly Ben L. Irvin) worked on the draft report. Corrections, errors, and suggested revisions were for to the WTO Secretariat. The Draft Working Party Report was circulated to members on 8 November 2005.

VIII. Deliverables

A. General Objective

The principle objective of the USAID Doha Project for the WTO Accession of Cape Verde was to facilitate the accession of Cape Verde to the WTO. This objective was fully carried out in a competent manner. Unfortunately, last minute glitches in market access negotiations precluded the nomination of Cape Verde as a WTO member at the December 2005 Hong Kong Ministerial Meeting.

The other general objective was the harmonization of Cape Verde's legislation and regulations with the requirements of the Uruguay Round agreements. This objective was also partially achieved by the acceptance of Cape Verde's Action Plans.

The USAID task order also included a number of other project performance requirements referred to in the technical language of USAID as "deliverables". The accomplishment or performance of these requirements is described below.

B. Specific Objectives

1. Preparation and submission of the Memorandum of Foreign Trade Regime of Cape Verde. Work on this document commenced in late January or early February 2003. A first draft was completed on March 31, 2003, and submitted to Minister Bonafacio Lopes.

After review within the various ministries, the MFTR was sent to the Council of Ministers for approval. On June 15, 2003, the MFTR was forwarded to the WTO Secretariat in Geneva. Cape Verde's Memorandum of Foreign Trade Regime (WT/ACC/CPV/ 3) was circulated to WTO Members on July 1, 2003.

2. Immediately following the submission of the MFTR to Geneva, the Cape Verde WTO Work Group and the Booz Allen Hamilton Technical Advisory Team initiated a study into 2 important areas: (a) the status of Cape Verde as a least developed country; and (b) flexibility of Cape Verde in negotiating terms and conditions of admission to the WTO in view of the Guidelines established by the General Council (WT/L/508).

The Government of Cape Verde wanted to call on the Members to expedite and be flexible in the negotiations to establish Cape Verde's WTO commitments, and to extend special and differential treatment as foreseen in the provisions of the WTO Agreements regarding LDC's. The conclusion of the study revealed that technical assistance and transition period were needed to implement some (if not most) of the WTO commitments

It was revealed that the United Nation's General Assembly had taken note of the Economic and Social Council's recommendation to graduate Cape Verde from the group of LDC's (Resolution A/RES/59/210 of 20 December 2004. Consequently, Cape Verde would no longer be classified as an LDC after December 2007.

3. The Cape Verde WTO Work Group and the Booz Allen Hamilton Technical Assistance team then began an assessment of the legal and regulatory regime of Cape Verde. The objective of the study was to identify laws and regulations that (a) were not in conformity with the WTO Agreements; or (b) needed to be drafted and put into place; or (c) needed to be amended to conform to international standards. The results of this study were the creation of a Legislative Action Plan.

4. Meetings with the Directors General of Customs revealed that Cape Verde was using the Customs Code of Portugal (circa 1954). A work project was initiated to draft a modern and comprehensive Customs Code that conformed to WTO and international standards. This activity resulted in a Customs Action Plan, including Customs Valuation, and a request for a 5-year transition period for implementation of the WTO Customs Valuation Agreement. Working Party Members generally agreed with this action plan and the transition period. The full Customs Action Plan can be found in Annex A, Table 17.

5. One of the results of the assessment of laws and regulations study was that Cape Verde did not have an Industrial Property Law but was using the 1960 version of the Portugal Industrial

Property. This would be an unacceptable position for Working Party Members. So, the Cape Verde WTO Coordinator and the Booz Allen Hamilton technical assistance project leader decided to initiate 2 activities. First, was to draft an Intellectual Property Action Plan, including Copyrights (law needed to be amended). The second was to obtain the services of an IP Lawyer. David Weinstein was retained to review the 2003 Industrial Property Law of Portugal and Cape Verdeanize it. Also, Mr. Weinstein was tasked to suggest amendments to the 1990 Copyrights Law of Cape Verde so as to bring their copyrights regime into conformity with the WTO TRIPS Agreement as well as international standards. Please refer to Annex A, Tables 18 - 19 for the Industrial Property Code.

6. Cape Verde has no administrative authority or entity that is involved with Technical Barriers to Trade. For this reason, a, action plan on Technical Barriers to Trade (TBT) was created and submitted to the Cape Verde Working Party. Cape Verde requested technical assistance from donors to assist in establishing a TBT agency, for training, for assistance to draft regulations, and other activities needed to implement the WTO Agreement on Technical Barriers to Trade. Please Refer to Annex A , Table 20, for the TBT Action Plan.

7. Although Cape Verde has various Sanitary and Phytosanitary regulations, they are neither well organized nor easy to located. For these reasons, the Cape Verde WTO Work Group and the Booz Allen Hamilton Technical Assistance project team leaders decided to prepare and submit an action plan on Sanitary and Phytosanitary measures. Please refer to Annex A, Table 21, for the SPS Action Plan.

8. The Cape Verde Foreign Investment Law provides that a dispute between parties may be settled through arbitration. However, there is no arbitration and/or mediation law in Cape Verde. Accordingly, it was recommended that such a law be created. Please refer to Annex A, Table 22, for the action plan established to ensure enactment of an Arbitration Law.

IX. Capacity Building and Technical Assistance

The process of accession represented a great opportunity for local capacity building. Cape Verde made use of technical assistance from USAID, but only limited use of consultancies from international organizations.

Because WTO accession is a negotiation process where public sector decision makers would be asked to play a very important role in the process of policy adjustments, Cape Verde put together a trade negotiating team and a competent interministerial technical team. Two aspects of capacity building are noteworthy:

- **Full knowledge of the rules.** Detailed knowledge of the agreements was very important for effective negotiations with WTO Members that were represented by highly specialists. As such, the trade negotiating team took an active part in trade policy and other WTO-related courses organized by the WTO, USAID, USPTO, EU and other multilateral organizations (such as UNCTAD). Specialized knowledge and expertise for

each specific WTO agreement was being developed with particular attention paid to training of specialists on different WTO agreements (TRIPS, Agriculture, TBT, SPS, Services and customs valuation.

- **Continuity of the trade negotiating team.** Cape Verde would like to ensure administrative continuity in the negotiations process is very important for effecting the activities both of Cape Verde as an acceding country, and ultimately as a WTO Member. In this respect, having and maintaining a stable and appropriately qualified team was an essential element to continue the momentum in the accession, as well as post-accession implementation process. Moreover, Cape Verde now has a network of contacts with negotiators from other countries.

Capacity building for the private sector is a must as it is they who will directly participate in implementing the agreements. Currently, this is a weakness in Cape Verde's WTO accession process. The private sector plays a limited role in policy making. Cape Verde needs to conduct courses or lectures in institutions of higher education on WTO legal principles, agreements and dispute resolution.

X. Conclusion

The USAID Doha Project for the WTO Accession for Cape Verde was a successful project. The Government of Cape Verde is close to completing the requirements for WTO Membership. The major hurdles are conclusion of market access negotiations on good and services, plus a 4th set of questions received subsequent to the December 2005 Geneva meeting. Unfortunately, the USAID funding for technical assistance ran out in mid December 2005.

XI. Recommendations:

Cape Verde requires technical assistance to complete its efforts to become a member of the WTO. With the infusion of technical assistance, it is my opinion that Cape Verde would be able to complete market access negotiations (both goods and services) prior to the end of 2006.

Tables 1- 10 : ACC 4/Agriculture

**WORLD TRADE
ORGANIZATION**

RESTRICTED

WT/ACC/SPEC/CPV/

1

13 January 2004

(04-0095)

**Working Party on the
Accession of Cape Verde**

Original: English

Accession of Cape Verde

Domestic Support and Export Subsidies in the Agricultural Sector

The following submission, dated 22 December 2003 is being circulated at the request of the Delegation of Cape Verde.

Explanatory Notes: Supporting Tables DS:1 – 9 and ES:1

- Domestic Support

The Republic of Cape Verde is a Least Developed Country with an extensive territorial sea, consisting of ten volcanic islands (one of which and eight others islets are uninhabited), emerging above the surface of the Atlantic Ocean from a long submarine ridge on the eastern edge of Cape Verde's Basin, off the western coast of Africa. Approximately 9.68 per cent of 403.3 thousand hectares of the land mass is arable of which 0.5 per cent has permanent crops. Total population is estimated at 434,625 (2002).

The representative period consist of the past three years in which data is available, including 1998, 1999, and 2001. Data is not available for the year 2000.

During the representative years, before and since, the Republic has not enacted any measure providing specific support for any agricultural product that meets the criteria defined in the Agreement on Agriculture of the WTO.

A number of measures benefit from technical and financial aid provided by donor countries and the aid component has been excluded from the figures quoted in the supporting tables.

Fresh water sources are limited and rainfall quantities are insufficient to nurture agriculture production, consequently infrastructure services are primarily associated with water supply and irrigation projects. These projects serve both environmental and agriculture purposes. The figures quoted in DS:1 for this category are those expenditures tracked by the Ministry of Environment, Agriculture and Fisheries only.

Salaries and wages make up the significant component of the Governments expenditure for domestic support.

- Export Subsidies

The Republic of Cape Verde does not and has not provided any form of export subsidies.

Table 1

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998 – 2001 (excluding 2000 due to unavailable data)

Measures exempt from the reduction commitment -- "Green Box"

Measure type	Name and description of measure with reference to criteria in Article 6:5 of the Agreement on Agriculture	Monetary value of measure in year in question (In Millions of CVE)	Data sources
1	2	3	4
Research - Annex 2; 2(a)	Research in connection with environment programs and research programmes related to particular products 1998 1999 2001	30,907 16,950 20,468	Ministry of Environment, Agriculture and Fisheries
Extension Services – Annex 2; 2(d)	Extension and advisory services, including provision of means to facilitate the transfer of information and the results of research to producer and consumers 1998 1999 2001	18,649 16,737 7,797	Same

Measure type	Name and description of measure with reference to criteria in Article 6:5 of the Agreement on Agriculture	Monetary value of measure in year in question (In Millions of CVE)	Data sources
1	2	3	4
Infrastructural Services Annex 2; 2(g)	Infrastructure services including roads, market, port and water supply facilities, drainage schemes 1998 1999 2001	474,382 523,212 494,462	Same
Public Stockholding ¹ for Food Security Purpose Annex 2: 3	Holding of stocks of products which form an integral part of a food security programme 1998 1999 2001	None None None	Same
	Total Value of Agriculture production 1998 1999 2001	1,460 1,648 1,643	

¹ Public Stockholding for Food Security is provided by donor countries.

Table 2

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998-2001(excluding 2000 due to unavailable data)

Measures exempt from the reduction commitment – Special and Differential Treatment – "Development Programmes"

Measure type	Name and description of measure with reference to criteria in Article 6:5 of the Agreement on Agriculture	Monetary value of measure in year in question (In Millions of CVE)	sources
1	2	3	4
NIL			

Table 3

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998-2001 (excluding 2000 due to unavailable data)

Measures exempt from the reduction commitment – Direct Payments under Production-Limiting Programmes – "Exempt Direct Payments"

Measure type	Name and description of measure with reference to criteria in Article 6:5 of the Agreement on Agriculture	Monetary value of measure in year in question (In Millions of CVE)	Data sources
1	2	3	4
NIL			

Table 4

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998-2001 (excluding 2000 due to unavailable data)

Calculation of the Total Aggregate Measurement of Support

Description of basic products	Product-specific AMS	Product-specific measurements of support	Current Total AMS
1	2	3	4
NIL			

Table 5

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998-2001 (excluding 2000 due to unavailable data)

Product-Specific Aggregate Measurements of Support: Market Price Support

Description of basic products	Calendar/ marketing year	Measure type(s)	Applied administered price	External reference price	Eligible production	Associated fees/ levies	Total market price support	Data sources
1	2	3	4	5	6	7	8 ((4-5*6)-7)	9
NIL								

Table 6

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998-2001 (excluding 2000 due to unavailable data)

Product-Specific Aggregate Measurements of Support: Non-Exempt Direct Payments

Description of basic product	Calendar/marketing year	Measures type(s)	Applied administered price	External reference price	Eligible production	Total price-related direct payments	Other non-exempt direct payments	Associated fees/levies	Total direct payments	Data sources
1	2	3	4	5	6	7 ((4+5)*6)	8	9	10 (7+8-9)	11
NIL										

Table 7

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998-2001 (excluding 2000 due to unavailable data)

Product-Specific Aggregate Measurements of Support: Other Product-Specific Support and Total Product-Specific AMS

Description of basic product	Calendar/marketing year	Measures type(s)	Other product-specific budgetary outlays	Other product-specific support	Associated fees/levies	Total other product-specific support	Market price support	Non-exempt direct payments	Total AMS	Data sources
1	2	3	4	5	6	7 (4+5-6)	8	9	10 (7+8-9)	11

Table 8

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998-2001 (excluding 2000 due to unavailable data)

Product-Specific Equivalent Measurements of Support

Description of basic products	Calendar/marketing year	Measure type(s)	Applied administered price	Production eligible to receive the applied administered price	Market price support budgetary outlays	Equivalent measurement of support	Non-exempt direct payments	Other product-specific support	Associated fees	Total monetary value of equivalent commitment	Data sources
1	2	3	4	5	6	7	8	9	10	11 (7+8+9-10)	12
NIL											

Table 9

DOMESTIC SUPPORT: CAPE VERDE
REPORTING PERIOD: 1998-2001 (excluding 2000 due to unavailable data)

Non-Product-Specific AMS

Measure type(s)	Calendar/marketing year	Non-product-specific budgetary outlays	Other non-product-specific support	Associated fees/levies	Total non-product specific support	Data sources
-----------------	-------------------------	--	------------------------------------	------------------------	------------------------------------	--------------

Table 10

EXPORT SUBSIDIES: CAPE VERDE
REPORTING PERIOD: 1998 – 2001 (excluding 2000 due to unavailable data)

Export Subsidies: Outlay and Quantity

Description of Products	Direct export subsidies	Sales of stocks	Producer financed subsidies	Cost reduction measures	Internal transport subsidies	Total product specific export subsidies	Quantity of subsidized exports	Data source
1	2	3	4	5	6	7	8	9
NIL								

Tables 11 – 13: ACC 5/Services

WORLD TRADE

RESTRICTED

ORGANIZATION

WT/ACC/CPV/4
13 January 2004
(04-0093)

Accession of Cape Verde

**Working Party on the
Accession of Cape Verde**

Original: English

Information to be Provided on Policy Measures
Affecting Trade in Services

. The following submissions dated 22 December 2003, is being circulated at the request of the Delegation of Cape Verde.

Table 11: Measures Relating to Market Access

Modes of Supply	Measures	Relevant Laws and Regulations
A. HORIZONTAL MEASURES		
(1) Cross Border Supply (2) Consumption Abroad (3) Commercial Presence (4) Presence of Natural Persons	(1) None (2) None (3) None (4) None except for measures concerning the entry and stay of foreign natural persons who fall into the categories listed below: Services Salespersons – persons not based in the Republic of Cape Verde and receiving no remuneration from a source located within the Republic of Cape Verde, who are engaged in activities relating to representing a services supplier for the purpose of negotiating for the sale of the services of that supplier where:	(4) Legislative Decree 6/97, Official Bulletin 17, First Series of 5 May; Regulatory Decree No. 11/99 and Regulatory Decree No. 12/99 both of 9 August, Official Bulletin 28/99, Orders in Council No. 47/99, 48/99, 49/99, 50/99 and 51/99 of 4 October, Official Bulletin No. 36/99, all of 4 October 1999. Constitution – Articles 7 and 24 including exception of paragraph 3 of same Article 24; Civil Code – Articles 14 to 24; Constitution – Articles 1, 2, 7, 12,-22, 24-25, 60-64, 66, 69; ILO Convention No. 17, 19, 29, 81, 98, 100, 105, 111, 118; International Covenant on Civil and Political Rights and International Covenant

Modes of Supply	Measures	Relevant Laws and Regulations
	<ul style="list-style-type: none"> - such sales are not made to the general public; - the sales person is not engaged in supplying the service. <p>Entry for persons named in this section is limited to a 90 day period.</p> <p>Intra-Corporate transferees – temporary presence of managers, executives, and specialists, who are employees of firms that provide services within the Republic of Cape Verde through a branch, subsidiary, or affiliate established in the Republic of Cape Verde and who are one of the following:</p> <p>Managers – persons within an organization who primarily direct the organization, or a department or sub-division of the organization, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or recommend hiring and firing, or other personnel actions (such as promotion or leave authorization), and exercise discretionary authority over day-to-day operations. Does not include first line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.</p> <p>Executives – persons within the organization who primarily direct the management of the</p>	<p>on Economic, Social and Cultural Rights both approved by Law No. 75/IV/92 published in Official Bulletin No. 8, I Series Supplement of 15 March 1993; Law No. 12/III/86 of 31 December 1986 approving the accession of Cape Verde to the African Chart of People and Human Rights; Law No. 36/V/97 of 25 August 1997; Law No. 90/IV/93 of 6 December 1993; regulatory Decree No. 1/94 of 3 January 1994.</p>

Modes of Supply	Measures	Relevant Laws and Regulations
	<p>organization, establish the goals and policies of the organization, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. Executives would not directly perform tasks related to the actual provision of a service or services of the organization.</p> <p>Specialists – persons within an organization who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organization's services, research, techniques, or management. (Specialists may include, but are not limited to, members of licensed professions.)</p> <p>Persons responsible for the setting up of a commercial presence.</p> <p>Persons as employees of an enterprise engaged in substantive business in the Republic of Cape Verde without having a commercial presence in the Republic of Cape Verde who provide a service as a professional of a service sector.</p> <p>Foreigners desiring a residence permit must demonstrate a source of income for their sustenance while in Cape Verde and be of good character in order to obtain a residence permit. Foreigners recruited by Cape Verde domestic</p>	

Modes of Supply	Measures	Relevant Laws and Regulations
	<p>enterprises must submit their contracts for review concerning their validity by the Director General of Labour in order to obtain a residence permit.</p> <p>Entry for persons named in this sector is limited to a one year period (residence permit) that may be extended one year at a time. After being resident for five years, the residence permit may be extended for three years at a time.</p>	
I. BUSINESS SERVICES		
1. Professional Services		
<p>(a) Legal Services</p> <p>- home country law and public international law (excluding Republic of Cape Verde Law)</p> <p>- practice as or through a qualified Republic of Cape Verde lawyer</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) None except as indicated under horizontal measures</p> <p>(1) None</p> <p>(2) None</p> <p>(3) These services may be performed only by members of the Bar Association (the Order) of the Republic of Cape Verde. Membership in the Order is restricted to citizens of the Republic of Cape Verde and residents of the Republic of Cape Verde who are citizens of countries wherein Portuguese is the official language</p>	Law 36/V/97 of 25 August

Modes of Supply	Measures	Relevant Laws and Regulations
	(Community of Countries with Portuguese as the Official Language – CPLP) ² (4) None except as indicated under horizontal measures	
(b) Accounting, auditing and bookkeeping services (c) Taxation Services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(d) Architectural services (e) Engineering services (f) Integrated engineering services (g) Urban Planning and landscape architectural services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(h) Medical and dental services	(1) None (2) None (3) Restricted to Citizens of Cape Verde with the exception of the following: - Foreign doctors who have served for three years in the Republic of Cape Verde's public health service; and - Foreign countries with which the Republic of Cape Verde has a cooperation agreement ³ (4) None except as indicated under horizontal measures	Law 95/III/90 of 27 October 1990, in Article 3, item 2, requires a person to read and understand Portuguese and possess expertise relevant to the health of the population or to the national economy Decree Law 12/92 of 25 January 1992, Article 3
(i) Veterinary services	(1) None	

² In fact the Law cited here applies to all professionals from CPLP

³ See also section VIII, points 1 and 2, No. 4

Modes of Supply	Measures	Relevant Laws and Regulations
(j) Services provided by midwives, nurses, physiotherapists and paramedical personnel	(2) None (3) None (4) None except as indicated under horizontal measures	
2. Computer and Related Services		
(a) Consultancy services related to the installation of computer hardware	(1) None (2) None	
(b) Software implementation services	(3) None	
(c) Data processing services	(4) None except as indicated under horizontal measures	
(d) Data base services		
3. Research and Development Services		
(a) R& D services on natural services	(1) None	
(b) R&D services on social sciences and humanities	(2) None (3) None	
(c) Interdisciplinary R&D services	(4) None except as indicated under horizontal measures	
4. Real Estate Services		
(a) Involving own or leased property	(1) None	
(b) On a fee or contract basis	(2) None (3) None (4) None except as indicated under horizontal measures	
5. Rental/Leasing Services without Operators		
(a) Relating to ships	(1) None if ships registered used in intra-island shipping can be registered abroad	
(b) Relating to aircraft	(2) None	
(c) Relating to other transport equipment	(3) None	
(d) Relating to other machinery and equipment	(4) None except as indicated under horizontal measures	
6. Other Business Services		
(a) Advertising services	(1) None	
(b) Market research and public opinion polling	(2) None	

Modes of Supply	Measures	Relevant Laws and Regulations
services (c) Management consulting services (d) Services related to management consulting (e) Technical testing and analysis services (f) Services incidental to agriculture, hunting and forestry (g) Services incidental to fishing (h) Services incidental to mining (i) Services incidental to manufacturing	(3) None (4) None except as indicated under horizontal measures	
(j) Services incidental to energy distribution	(1) None (2) None (3) The government of Cape Verde has executed a concession contract which confers monopoly rights to Electra. This concession contract is due to expire in 2036. (4) None except as indicated under horizontal measures	
(k) Placement and supply services of Personnel	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(l) Investigation and Security	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(m) Related scientific and technical consulting services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	

Modes of Supply	Measures	Relevant Laws and Regulations
(n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(o) Building-cleaning services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(p) Photographic services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(q) Packaging services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(r) Printing, publishing	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(s) Convention services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(t) Other	(1),(2),(3),(4) Must have a commercial presence in Cape Verde, be licensed by the Customs	

Modes of Supply	Measures	Relevant Laws and Regulations
- Customs brokerage services	Authority and be a citizen of Cape Verde.	
II. COMMUNICATION SERVICES		
1. Postal Services	(1),(3),(4) Universal postal services are provided exclusively by the state-owned enterprise Postal Services	
2. Courier Services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
3. Telecommunication Services		
(a) Voice telephone services (b) Packet-switched data transmission services (c) Circuit-switched data transmission services (d) Telex services (e) Telegraph services (f) Facsimile service (g) Private leased circuit services (h) Electronic mail (i) Voice mail (j) On-line information and data base retrieval (k) Electronic data interchange (EDI) (l) Enhanced/value-added facsimile services, including store and forward, store and retrieve (m) Code and protocol conversion (n) On-line information and/or data processing (including transaction processing)	(2) None (3) Cape Verde Telecom has a monopoly on these services using land lines under its concession agreement with the government of the Republic of Cape Verde which is due to expire on 27 November 2021. Mobile voice telephone services are not covered under this concession agreement and at present one mobile telephone service provider, CV Mobile, a subsidiary of Cape Verde Telecom has been licensed (4) None except as indicated under horizontal commitments	
(o) Other - Mobile and personal communications services	(1),(3) None except that inter-island and international interconnection of a mobile telephone network with another mobile or fixed network has to be switched over the	

Modes of Supply	Measures	Relevant Laws and Regulations
	Cape Verde Telecom network in accordance with its concession agreement which is due to expire on 27 November 2021	
4. Audiovisual Services		
(a) Motion picture and video tape production and distribution services	(1) None	
(b) Motion picture projection service	(2) None	
(c) Radio and television services	(3) None	
(d) Radio and television transmission services	(4) None except as indicated under horizontal measures	
(e) Sound recording		
III. CONSTRUCTION AND RELATED ENGINEERING SERVICES		
1. General construction work for buildings	(1) None	
2. General construction work for civil engineering	(2) None	
3. Installation and assembly work	(3) None	
4. Building completion and finishing work	(4) None except as indicated under horizontal measures	
IV. DISTRIBUTION SERVICES		
1. Commission agents' services	(1) None	
2. Wholesale trade services	(2) None	
3. Retailing services	(3) None	
4. Franchising	(4) None except as indicated under horizontal measures	
V. EDUCATIONAL SERVICES		
1. Primary education services	(1) None except for primary education services funded by the government of the Republic of Cape Verde (2) None (3) None except for primary education services funded by the government of the Republic of Cape Verde (4) None except as indicated under horizontal measures	

Modes of Supply	Measures	Relevant Laws and Regulations
2. Secondary education services	(1) None except for secondary education services funded by the government of the Republic of Cape Verde (2) None (3) None except for secondary education services funded by the government of Cape Verde (4) None except as indicated under horizontal measures	
3. Higher education services	(1) None except for higher education services funded by the government of the Republic of Cape Verde (2) None (3) None except for higher education services funded by the government of Cape Verde (4) None except as indicated under horizontal measures	
4. Adult education	(1) None except for adult education services funded by the government of the Republic of Cape Verde (2) None (3) None except for higher education services funded by the government of Cape Verde (4) None except as indicated under horizontal measures	
VI. ENVIRONMENTAL SERVICES		
1. Sewage services 2. Refuse disposal services 3. Sanitation and similar services	(1) (3) (4) The supply of these services is presently regulated by the municipalities	
VII. FINANCIAL SERVICES		
1. All insurance and insurance-related services		
(a) Life, accident and health insurance services	(1) These services may only be provided by an	Decree-Law No. 52-F/90 of 4 July

Modes of Supply	Measures	Relevant Laws and Regulations
(b) Non-life insurance services (c) Reinsurance and retrocession	entity with a commercial presence in Cape Verde approved by the Bank of Cape Verde (2) None (3) Insurance companies must register and be approved by the Minister of Finance or the Prime Minister upon recommendation of the Bank of Cape Verde (4) None except as indicated under horizontal commitments	
(d) Services auxiliary to insurance (including broking and agency services)	(1) These services may only be provided by an entity with a commercial presence in Cape Verde approved by the Bank of Cape Verde (2) None (3) Insurance brokers and agents must be approved by Bank of Cape Verde (4) Brokers must meet legal qualification requirements of the Bank of Cape Verde and be registered as agents for a minimum of three years; agents must meet legal qualification requirements and have resided in Cape Verde for more than two years	Decree-Law 101-P/90 of 23 November
2. Banking and other financial services (excluding insurance)		
(a) Acceptance of deposits and other repayable funds from the public (b) Lending of all types, including inter alia, consumer credit, mortgage credit, factoring and financing of commercial transactions (c) Financial leasing (d) All payment and money transmission services (e) Guarantees and commitments (f) Trading for own account or for account of	(1) Must establish a commercial presence in Cape Verde (2) None (3) Foreign banks and para-banking institutions must apply to the Bank of Cape Verde to establish a commercial presence. Authorization to establish a commercial presence for banks is issued by the Minister of Finance upon recommendation of the Bank of Cape Verde. Authorization to	Law No. 3/V/96 of 3 November governs establishment of banking representative offices, branches, and banks incorporated as limited liability companies or joint stock companies. Law No. 43/III/88 of 27 December (rewritten in Law No. 3/V/96 of 03 November)) Decree-Law No. 66/97 dated 3 November elaborates on requirements for a foreign bank to

Modes of Supply	Measures	Relevant Laws and Regulations
<p>customers, whether on an exchange, in an over the counter market or otherwise, the following:</p> <ul style="list-style-type: none"> - money market instruments (cheques, bills, certificates of deposits, etc.) - foreign exchange - derivative products including but not limited to, futures and options - exchange rate and interest rate instruments, including products such as swaps, forward rate agreements, etc. - transferable securities - other negotiable instruments and financial assets, including bullion <p>(g) Participation in issues of all kinds of securities, including under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues</p> <p>(h) Money broking</p> <p>(i) Asset management, such as cash or portfolio management, all forms of collective investment management, custodial depository and trust services</p> <p>(j) Settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments</p> <p>(k) Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, including credit reference and analysis, investment and</p>	<p>establish a para-banking commercial presence is issued by the Bank of Cape Verde. Authorization is dependent on a determination that the institution to be established is "able to contribute to the efficiency of the national financial system and be adapted to the objectives of the country's economic, financial, monetary and exchange policies." The minimum capital requirement for a bank is CVE 300 million. At least 50% of the employees of branches of foreign banks must be citizens of Cape Verde.</p> <p>(4) None except as indicated under horizontal measures.</p>	<p>establish itself in the Republic of Cape Verde.</p>

Modes of Supply	Measures	Relevant Laws and Regulations
<p>portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy</p> <p>(1) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services</p>		
VIII. HEALTH RELATED AND SOCIAL SERVICES		
<p>1. Hospital Services</p> <p>2. Other Human Health Services</p>	<p>(1) None except for hospital services funded by the government of Cape Verde</p> <p>(2) None</p> <p>(3) Must obtain license issued by General Directorate of Health.</p> <p>(4) Only foreign doctors from countries with which Cape Verde has cooperation agreements or foreign doctors who have worked for three years in Cape Verde may practice in Cape Verde. The Ministry of Health may admit foreign specialists to practice in Cape Verde if it determines there is a need for that specialty⁴.</p>	
<p>3. Social Services</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) None except as indicated under horizontal measures</p>	

⁴ See also section I, (g) No. 3 (b)

Modes of Supply	Measures	Relevant Laws and Regulations
IX. TOURISM AND TRAVEL RELATED SERVICES		
1. Hotels and restaurants (including catering) 2. Travel agencies and tour operators services 3. Tourist guides services	(1) None (2) None (3) Special incentives "Tourism Utility Status" (duty free import of materials, tax exemptions, profit remittance abroad, etc.) exist in this sector. Foreign entities must first obtain "Foreign Investor Status" in order to obtain access to these incentives. PROMEX issues the "Foreign Investor Status" based on an evaluation of the business plan for the project considering the size of the investment, its economic impact and whether it is in harmony with the economic development goals of Cape Verde. (4) None except as indicated under horizontal measures	Law No. 89/IV/83 of 13 December 1993 – Foreign Investment Law Law No. 42/IV/92 of 6 April 2002 – Tourism Utility Law
X. RECREATIONAL, CULTURAL AND SPORTING SERVICES		
1. Entertainment services (including theatre, live bands, and circus services) 2. News agency services 3. Libraries, archives, museums and other cultural services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
XI. TRANSPORT SERVICES		
1. Maritime Transport Services		
(a) Passenger transportation (b) Freight transportation (d) Rental of vessels with crew (d) Maintenance and repair of vessels (e) Pushing and towing services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(f) Supporting services for maritime transport	(1) (3) These services are the exclusive province	

Modes of Supply	Measures	Relevant Laws and Regulations
	<p>of ENAPOR, a Republic of Cape Verde government enterprise in the process of privatization</p> <p>(2) None</p> <p>(4) None except as indicated under horizontal measures</p>	
2. Internal Waterways Transport		
<p>(a) Passenger transportation</p> <p>(b) Freight transportation</p> <p>(c) Rental of vessels with crew</p> <p>(d) Maintenance and repair of vessels</p> <p>(e) Pushing and towing services</p>	<p>(1) Ships used in inter island traffic need to be registered in Cape Verde</p> <p>(2) None</p> <p>(3) Need to check on limitations on commercial presence</p> <p>(4) Need to check on limitations such as employment of foreigners</p>	
<p>(f) Supporting services for internal waterway transport (inter island transport)</p>	<p>(1) (3) These services are the exclusive province of ENAPOR, a Republic of Cape Verde government enterprise in the process of privatization</p> <p>(2) None</p> <p>(4) None except as indicated under horizontal measures</p>	
3. Air Transport Services		
<p>(a) Passenger transportation</p> <p>(b) Freight transportation</p> <p>(c) Rental of aircraft with crew</p> <p>(d) Maintenance and repair of aircraft</p>	<p>(1) Foreign air transport companies are not permitted to provide domestic air transportation services.</p> <p>(2) None</p> <p>(3) TACV, the domestic airline, is a state owned enterprise in the process of privatization (expected in 2004) which has a monopoly until it is privatized on domestic air transportation, maintenance and repair, and cargo handling.</p>	

Modes of Supply	Measures	Relevant Laws and Regulations
	(4) None except as indicated under horizontal measures	
(e) Supporting services for air transport (CPC 746)	(1) (3) These services are the exclusive province of the Airport Security Administration, a Republic of Cape Verde government agency (2) None (4) None except as indicated under horizontal measures	
6. Road Transport Services		
(a) Passenger transportation (b) Freight transportation (c) Rental of commercial vehicles with operators (d) Maintenance and repair of road transport equipment (e) Supporting services for road transport services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	

Modes of Supply	Measures	Relevant Laws and Regulations
8. Services auxiliary to all modes of transport		
(a) Cargo-handling services (b) Storage and warehouse services (c) Freight transport agency services	(1) Port cargo handling and storage is a monopoly of ENAPOR, a state owned enterprise in the process of privatization. After privatization this sector will be opened to competition. Air cargo handling services are a monopoly of TACV, the state owned inter island airline. After privatization this sector will be opened to competition. (2) None (3) Port cargo handling and storage is a monopoly of ENAPOR, a state owned enterprise in the process of privatization. After privatization this sector will be opened to competition. Air cargo handling services are a monopoly of TACV, the state owned inter island airline. After privatization this sector will be opened to competition (4) None except as indicated under horizontal measures	

Table 12: Measures Relating to National Treatment

Modes of Supply	Measures	Relevant Laws and Regulations
A. HORIZONTAL MEASURES		
(1) Cross Border Supply (2) Consumption Abroad (3) Commercial Presence (4) Presence of Natural Persons	(1) None (2) None (3) None (4) None except for measures concerning the entry and stay of foreign natural persons who fall into the categories listed below: Services Salespersons – persons not based in the Republic of Cape Verde and receiving no remuneration from a source located within the Republic of Cape Verde, who are engaged in activities relating to representing a services supplier for the purpose of negotiating for the sale of the services of that supplier where: - such sales are not made to the general public; - the sales person is not engaged in supplying the service. Entry for persons named in this section is Limited to a 90 day period. Intra-Corporate transferees – temporary presence of managers, executives, and specialists, who are employees of firms that provide services within the Republic of Cape Verde through a branch, subsidiary, or affiliate established in the Republic of Cape Verde and who are one of the following:	(4) Decree-law 6/97, Boletim Oficial 17-I, First Series 5 May; Regulatory Decree No. 11/99 dated 9 August, Boletim Oficial 28/99, Boletim Oficial 36/99 dated 4 October 1999

Modes of Supply	Measures	Relevant Laws and Regulations
	<p>Managers – persons within an organization who primarily direct the organization, or a department or sub-division of the organization, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or recommend hiring and firing, or other personnel actions (such as promotion or leave authorization), and exercise discretionary authority over day-to-day operations. Does not include first line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.</p> <p>Executives – persons within the organization who primarily direct the management of the organization, establish the goals and policies of the organization, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. Executives would not directly perform tasks related to the actual provision of a service or services of the organization.</p> <p>Specialists – persons within an organization who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organization's services, research, techniques, or management.</p>	

Modes of Supply	Measures	Relevant Laws and Regulations
	<p>(Specialists may include, but are not limited to, members of licensed professions.)</p> <p>Persons responsible for the setting up of a commercial presence.</p> <p>Persons as employees of an enterprise engaged in substantive business in the Republic of Cape Verde without having a commercial presence in the Republic of Cape Verde who provide a service as a professional of a service sector.</p> <p>Foreigners desiring a residence permit must demonstrate a source of income for their sustenance while in Cape Verde and be of good character in order to obtain a residence permit. Foreigners recruited by Cape Verde domestic enterprises must submit their contracts for review concerning their validity by the Director General of Labour in order to obtain a residence permit.</p> <p>Entry for persons named in this sector is limited to a one-year period (residence permit) that may be extended one year at a time. After being resident for five years, the residence permit may be extended for three years at a time.</p>	
I. BUSINESS SERVICES		
1. Professional Services		
(a) Legal Services		
- home country law and public international law (excluding Republic	(1) None (2) None	

Modes of Supply	Measures	Relevant Laws and Regulations
<p>of Cape Verde Law)</p> <p>- practice as or through a qualified Republic of Cape Verde lawyer</p>	<p>(3) None</p> <p>(4) None except as indicated under horizontal measures</p> <p>(1) None</p> <p>(2) None</p> <p>(3) These services may be performed only by members of the Bar Association (the Order) of the Republic of Cape Verde. Membership in the Order is restricted to citizens of the Republic of Cape Verde and residents of the Republic of Cape Verde who are citizens of countries wherein Portuguese is the official language (Community of Countries with Portuguese as the Official Language – CPLP)</p> <p>(4) None except as indicated under horizontal measures</p>	
<p>(b) Accounting, auditing and bookkeeping services</p> <p>(c) Taxation Services</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) None except as indicated under horizontal measures</p>	
<p>(d) Architectural services</p> <p>(e) Engineering services</p> <p>(f) Integrated engineering services</p> <p>(g) Urban Planning and landscape architectural services</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) None except as indicated under horizontal measures</p>	

Modes of Supply	Measures	Relevant Laws and Regulations
(h) Medical and dental services	<p>(1) None</p> <p>(2) None</p> <p>(3) Restricted to Citizens of Cape Verde with the exception of the following:</p> <p>(a) Foreign doctors who have served for three years in the Republic of Cape Verde's public health service</p> <p>(b) Foreign countries with which the Republic of Cape Verde has a cooperation agreement</p> <p>(4) None except as indicated under horizontal measures</p>	
<p>(i) Veterinary services</p> <p>(j) Services provided by midwives, nurses, physiotherapists and paramedical personnel</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) None except as indicated under horizontal measures</p>	
2. Computer and Related Services		
<p>(a) Consultancy services related to the installation of computer hardware</p> <p>(b) Software implementation services</p> <p>(c) Data processing services</p> <p>(d) Data base services</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) None except as indicated under horizontal measures</p>	
3. Research and Development Services		
<p>(a) R& D services on natural services</p> <p>(b) R&D services on social sciences and humanities</p> <p>(c) Interdisciplinary R&D services</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) None except as indicated under horizontal measures</p>	

Modes of Supply	Measures	Relevant Laws and Regulations
4. Real Estate Services		
(a) Involving own or leased property (b) On a fee or contract basis	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
5. Rental/Leasing Services without Operators		
(a) Relating to ships (b) Relating to aircraft (c) Relating to other transport equipment (d) Relating to other machinery and equipment	(1) None if ships registered used in intra-island shipping can be registered abroad (2) None (3) None (4) None except as indicated under horizontal measures	
6. Other Business Services		
(a) Advertising services (b) Market research and public opinion polling services (c) Management consulting services (d) Services related to management consulting (e) Technical testing and analysis services (f) Services incidental to agriculture, hunting and forestry (g) Services incidental to fishing (h) Services incidental to mining (i) Services incidental to manufacturing	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(j) Services incidental to energy distribution	(1) None (2) None (3) The government of Cape Verde has executed a concession contract which confers monopoly rights to Electra. This concession contract is due to expire in 2036 (4) None except as indicated under horizontal	

Modes of Supply	Measures	Relevant Laws and Regulations
	measures	
(k) Placement and supply services of Personnel	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(l) Investigation and Security	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(m) Related scientific and technical consulting services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(o) Building-cleaning services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(p) Photographic services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(q) Packaging services	(1) None	

Modes of Supply	Measures	Relevant Laws and Regulations
	(2) None (3) None (4) None except as indicated under horizontal measures	
(r) Printing services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(s) Convention services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(t) Other - Customs brokerage services	(1) (2) (3) (4) Must have a commercial presence in Cape Verde, be licensed by the Customs Authority and be a citizen of Cape Verde.	
II. COMMUNICATION SERVICES		
1. Postal Services	(1)(3)(4) Universal postal services are provided exclusively by the state-owned enterprise Postal Services	
2. Courier Services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
3. Telecommunication Services		
(a) Voice telephone services (b) Packet-switched data transmission service (c) Circuit-switched data transmission services (d) Telex services (e) Telegraph services	(2) None (3) Cape Verde Telecom has a monopoly on these services using land lines under its concession agreement with the government of the Republic of Cape Verde which is due	

Modes of Supply	Measures	Relevant Laws and Regulations
(f) Facsimile service (g) Private leased circuit services (h) Electronic mail (i) Voice mail (j) On-line information and data base retrieval (k) Electronic data interchange (EDI) (l) Enhanced/value-added facsimile services, including store and forward, store and retrieve (m) Code and protocol conversion (n) On-line information and/or data processing (including transaction processing)	to expire on 27 November 2021. Mobile voice telephone services are not covered under this concession agreement and at present one mobile telephone service provider, CV Mobile, a subsidiary of Cape Verde Telecom has been licensed (4) None except as indicated under horizontal commitments	
(o) Other services: - Mobile and personal communications services	(1),(3) None except that inter-island and international interconnection of a mobile telephone network with another mobile or fixed network has to be switched over the Cape Verde Telecom network in accordance with its concession agreement which is due to expire on 27 November 2021	
4. Audiovisual Services		
(a) Motion picture and video tape (b) Motion picture projection (c) Radio and television services (d) Radio and television transmission services (e) Sound recording	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
III. CONSTRUCTION AND RELATED ENGINEERING SERVICES		
1. General construction work for buildings 2. General construction work for civil engineering 3. Installation and assembly work 4. Building completion and finishing work	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	

Modes of Supply	Measures	Relevant Laws and Regulations
IV. DISTRIBUTION SERVICES		
1. Commission agents services	(1) None	
2. Wholesale trade services	(2) None	
3. Retailing services	(3) None	
4. Franchising	(4) None except as indicated under horizontal measures	
V. EDUCATIONAL SERVICES		
1. Primary education services	(1) None except for primary education Services funded by the government of the Republic of Cape Verde (2) None (3) None except for primary education services funded by the government of the Republic of Cape Verde (4) None except as indicated under horizontal measures	
2. Secondary education services	(1) None except for secondary education services funded by the government of the Republic of Cape Verde (2) None (3) None except for secondary education services funded by the government of the Republic of Cape Verde (4) None except as indicated under horizontal measures	
3. Higher education services	(1) None except for higher education services funded by the government of Republic of Cape Verde (2) None (3) None except for higher education services funded by the government of the Republic of Cape Verde	

Modes of Supply	Measures	Relevant Laws and Regulations
	(4) None except as indicated under horizontal measures	
4. Adult education	(1) None except for adult education services funded by the government of the Republic of Cape Verde (2) None (3) None except for higher education services funded by the government of the Republic of Cape Verde (4) None except as indicated under horizontal measures	
VI. ENVIRONMENTAL SERVICES		
1. Sewage services 2. Refuse disposal services 3. Sanitation and similar services	(1) (3) (4) The supply of these services is presently regulated by the municipalities	
VII. FINANCIAL SERVICES		
1. All insurance and insurance-related services		
(a) Life, accident and health insurance services (b) Non-life insurance services (c) Reinsurance and retrocession	(1) These services may only be provided by an entity with a commercial presence in Cape Verde approved by the Bank of Cape Verde (2) None (3) Insurance companies must register and be approved by the Minister of Finance or the Prime Minister upon recommendation of the Bank of Cape Verde (4) None except as indicated under horizontal commitments	Decree-Law No. 52-F/90 of 4 July

Modes of Supply	Measures	Relevant Laws and Regulations
(d) Services auxiliary to insurance (including broking and agency services)	<p>(1) These services may only be provided by an entity with a commercial presence in Cape Verde approved by the Bank of Cape Verde</p> <p>(2) None</p> <p>(3) Insurance brokers and agents must be approved by Bank of Cape Verde</p> <p>(4) Brokers must meet legal qualification requirements of the Bank of Cape Verde and be registered as agents for a minimum of three years; agents must meet legal qualification requirements and have resided in Cape Verde for more than two years</p>	Decree-Law 101-P/90 of 23 November
2. Banking and other financial services (excluding insurance)		
<p>(a) Acceptance of deposits and other repayable funds from the public</p> <p>(b) Lending of all types, including inter alia, consumer credit, mortgage credit, factoring and financing of commercial transactions</p> <p>(c) Financial leasing</p> <p>(d) All payment and money transmission services</p> <p>(e) Guarantees and commitments</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over the counter market or otherwise, the following:</p> <ul style="list-style-type: none"> - money market instruments (cheques, bills, certificates of deposit, etc.) - foreign exchange - derivative products including but not limited to, futures and options - exchange rate and interest rate 	<p>(1) Must establish a commercial presence in Cape Verde</p> <p>(2) None</p> <p>(3) Foreign banks and para-banking institutions must apply to the Bank of Cape Verde to establish a commercial presence. Authorization to establish a commercial presence for banks is issued by the Minister of Finance upon recommendation of the Bank of Cape Verde. Authorization to establish a para-banking commercial presence is issued by the Bank of Cape Verde. Authorization is dependent on a determination that the institution to be established is "able to contribute to the efficiency of the national financial system and be adapted to the objectives of the country's economic, financial, monetary and exchange policies." The minimum capital</p>	<p>Law No. 3/V/96 of 3 November governs establishment of banking representative offices, branches, and banks incorporated as limited liability companies or joint stock companies.</p> <p>Law No. 43/III/88 of 27 December (rewritten in Law No. 3/V/96 of 03 November))</p> <p>Decree-Law No. 66/97 dated 3 November elaborates on requirements for a foreign bank to establish itself in the Republic of Cape Verde.</p>

Modes of Supply	Measures	Relevant Laws and Regulations
<p>instruments, including products such as swaps, forward rate agreements, etc.</p> <ul style="list-style-type: none"> - transferable securities - other negotiable instruments and financial assets, including bullion <p>(g) Participation in issues of all kinds of securities, including under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues</p> <p>(h) Money broking</p> <p>(i) Asset management, such as cash or portfolio management, all forms of collective investment management, custodial depository and trust services</p> <p>(j) Settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments</p> <p>(k) Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy</p> <p>(l) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services</p>	<p>CVE 300 million. At least 50% of the employees of branches of foreign banks must be citizens of Cape Verde.</p> <p>(4) None except as indicated under horizontal measures.</p>	

Modes of Supply	Measures	Relevant Laws and Regulations
VIII. HEALTH RELATED AND SOCIAL SERVICES		
1. Hospital Services 2. Other Human Health Services	(1) None except for hospital services funded by the government of Cape Verde (2) None (3) Must obtain license issued by General Directorate of Health. (4) Only foreign doctors from countries with which Cape Verde has cooperation agreements or foreign doctors who have worked for three years in Cape Verde may practice in Cape Verde. The Ministry of Health may admit foreign specialists to practice in Cape Verde if it determines there is a need for that specialty.	Law No. 95/III/90 of 27 October Ministerial Decree No. 8/92 of 21 January
3. Social Services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	

Modes of Supply	Measures	Relevant Laws and Regulations
IX. TOURISM AND TRAVEL RELATED SERVICES		
1. Hotels and restaurants (including catering) 2. Travel agencies and tour operators services 3. Tourist guides services	(1) None (2) None (3) Special incentives "Tourism Utility Status" (duty free import of materials, tax exemptions, profit remittance abroad, etc.) exist in this sector. Foreign entities must first obtain "Foreign Investor Status" in order to obtain access to these incentives. PROMEX issues the "Foreign Investor Status" based on an evaluation of the business plan for the project considering the size of the investment, its economic impact and whether it is in harmony with the economic development goals of Cape Verde. (4) None except as indicated under horizontal measures	Law No. 89/IV/83 of 13 December 1993 – Foreign Investment Law Law No. 42/IV/92 of 6 April 2002 – Tourism Utility Law
X. RECREATIONAL, CULTURAL AND SPORTING SERVICES		
1. Entertainment services (including theatre, live bands, and circus services) 2. News agency services 3. Libraries, archives, museums and other cultural services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
XII. TRANSPORT SERVICES		
1. Maritime Transport Services		
(a) Passenger transportation (b) Freight transportation (c) Rental of vessels with crew (d) Maintenance and repair of vessels (e) Pushing and towing services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	
(f) Supporting services for maritime transport	(1) (3) These services are the exclusive province of ENAPOR, a Republic of Cape Verde	

Modes of Supply	Measures	Relevant Laws and Regulations
	government enterprise in the process of privatization (2) None (4) None except as indicated under horizontal measures	
2. Internal Waterways Transport		
(a) Passenger transportation (b) Freight transportation (c) Rental of vessels with crew (d) Maintenance and repair of vessels (e) Pushing and towing services	(1) Ships used in inter island traffic need to be registered in Cape Verde (2) None (3) Need to check on limitations on commercial presence (4) Need to check on limitations such as employment of foreigners	
(f) Supporting services for internal waterway transport (inter island transport)	(1) (3) These services are the exclusive province of ENAPOR, a Republic of Cape Verde government enterprise in the process of privatization (2) None (4) None except as indicated under horizontal measures	
3. Air Transport Services		
(a) Passenger transportation (b) Freight transportation (c) Rental of aircraft with crew (d) Maintenance and repair of aircraft	(1) Foreign air transport companies are not permitted to provide domestic air transportation services. (2) None (3) TACV, the domestic airline, is a state owned enterprise in the process of privatization (expected in 2004) which has a monopoly until it is privatized on domestic air transportation, maintenance and repair, and cargo handling. (4) None except as indicated under horizontal	

Modes of Supply	Measures	Relevant Laws and Regulations
	measures	
(e) Supporting services for air transport (CPC 746)	(1) (3) These services are the exclusive province of the Airport Security Administration, a Republic of Cape Verde government agency (2) None (4) None except as indicated under horizontal measures	
6. Road Transport Services		
(a) Passenger transportation (b) Freight transportation (c) Rental of commercial vehicles with operators (d) Maintenance and repair of road transport equipment (e) Supporting services for road transport services	(1) None (2) None (3) None (4) None except as indicated under horizontal measures	

Modes of Supply	Measures	Relevant Laws and Regulations
8. Services auxiliary to all modes of transport		
(a) Cargo-handling services (b) Storage and warehouse services (c) Freight transport agency services	(1) Port cargo handling and storage is a monopoly of ENAPOR, a state owned enterprise in the process of privatization. After privatization this sector will be opened to competition. Air cargo handling services are a monopoly of TACV, the state owned inter island airline. After privatization this sector will be opened to competition. (2) None (3) Port cargo handling and storage is a monopoly of ENAPOR, a state owned enterprise in the process of privatization. After privatization this sector will be opened to competition. Air cargo handling services are a monopoly of TACV, the state owned inter island airline. After privatization this sector will be opened to competition (4) None except as indicated under horizontal measures	

Table 13: Measures Relating to Most Favored Nation Treatment

Modes of Supply	Measures	Relevant Laws and Regulations
A. HORIZONTAL MEASURES		
(1) Cross Border Supply (2) Consumption Abroad (3) Commercial Presence (4) Presence of Natural Persons	(1) None (2) None (3) None (4) None except for measures concerning the entry and stay of foreign natural persons who fall into the categories listed below: Services Salespersons – persons not based in the Republic of Cape Verde and receiving no remuneration from a source located within the Republic of Cape Verde, who are engaged in activities relating to representing a services supplier for the purpose of negotiating for the sale of the services of that supplier where: - such sales are not made to the general public; - the sales person is not engaged in supplying the service. Entry for persons named in this section is Limited to a 90 day period. Intra-Corporate transferees – temporary presence of managers, executives, and specialists, who are employees of firms that provide services within the Republic of Cape Verde through a branch, subsidiary, or affiliate established in the Republic of Cape Verde and who are one of the following:	(4) Decree-law 6/97, Boletim Oficial 17-I, First Series 5 May; Regulatory Decree No. 11/99 dated 9 August, Boletim Oficial 28/99, Boletim Oficial 36/99 dated 4 October 1999

Modes of Supply	Measures	Relevant Laws and Regulations
	<p>Managers – persons within an organization who primarily direct the organization, or a department or sub-division of the organization, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or recommend hiring and firing, or other personnel actions (such as promotion or leave authorization), and exercise discretionary authority over day-to-day operations. Does not include first line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.</p> <p>Executives – persons within the organization who primarily direct the management of the organization, establish the goals and policies of the organization, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. Executives would not directly perform tasks related to the actual provision of a service or services of the organization.</p> <p>Specialists – persons within an organization who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organization's services,</p>	

Modes of Supply	Measures	Relevant Laws and Regulations
	<p>research, techniques, or management. (Specialists may include, but are not limited to, members of licensed professions.)</p> <p>Persons responsible for the setting up of a commercial presence.</p> <p>Persons as employees of an enterprise engaged in substantive business in the Republic of Cape Verde without having a commercial presence in the Republic of Cape Verde who provide a service as a professional of a service sector.</p> <p>Foreigners desiring a residence permit must demonstrate a source of income for their sustenance while in Cape Verde and be of good character in order to obtain a residence permit. Foreigners recruited by Cape Verde domestic enterprises must submit their contracts for review concerning their validity by the Director General of Labour in order to obtain a residence permit.</p> <p>Foreigners in the above categories who are citizens of the Community of Portuguese Speaking Countries may receive a one-year multiple entry visa good for one 90 day stay every six months. Citizens of countries which are members of ECOWAS (of which Cape Verde is a member) do not require a visa to come to Cape Verde. Entry for persons named in this section is limited to a one-year period (residence permit) that may be extended one year at a time.</p>	

Modes of Supply	Measures	Relevant Laws and Regulations
	After being resident for five years, the residence permit may be extended for three years at a time.	

Table 14: ACC 8 – Sanitary and Phytosanitary Standards and Technical Barriers to Trade

Accession of Cape Verde

Check-list of Illustrative Sanitary and Phytosanitary (SPS) and
Technical Barriers to Trade (TBT) Issues for Consideration in Accessions

The following submissions dated 22 December 2003, is being circulated at the request of the Delegation of Cape Verde.

Check-list of Illustrative SPS Issues for Consideration in Accessions

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
1. Standstill: the introduction of new standards, animal health regulations and food safety regulations shall conform to SPS Agreement principles.	1. Generally agreed principle in WTO accession negotiations.	The Government of Cape Verde is committed to complying with requirements of the SPS Agreement. As an LDC, it recognizes that financial and technical resources will be required to achieve the required level of compliance. In such case, Cape Verde will need a transition period.
2. Establishment and operation of a single Contact Point for Information ("enquiry point").	2. Article 7 and Annex B.3.	There is no Enquiry Point for SPS matters. A Contact Point will be set up as soon as possible.
3. Transparency: notification and access to documentation:	3. Articles 7 and Annex B, Also G/SPS/7.	There is no Enquiry Point. Consequently no notifications have been made and other functions of the enquiry point are not being carried out

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
(a) identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis;	(a) Annex B.5. (b) And Annex B.10.	These provisions have not been met and will be in compliance when an SPS Enquiry Point is established (as part of the accession process).
(b) establish guidance or law requiring publication of proposed measures at an early stage for comment;	(b) Annex B.5 (a).	As of now, there is no guidance or law requiring publication of proposed measures at an early stage, for comment.
(c) provision in law or administrative procedure to provide copies of proposed measures to WTO Members; and	(c) Annex B.5. (c).	Same as above, concerning notice to WTO Members
(d) require in law or administrative procedure, a reasonable period of time for comment from Members and the public, and establishment of a process to take comments into account without discrimination.	(d) Annex B.5 (d).	Same as in 3.b above.

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
4. Necessity: measures are applied only to the extent necessary to protect human, animal or plant health.	4. Article 2.2.	See Decree No. 63/89 of 14.09, Decree-Law No. 89/92 of 16 July, Decree-Law No. 26/97 of 19 May, Regulatory Decree No. 15/97 of 3 December; Resolution No. 57/97 of 29.12; Decree-law No. 74/97 and Decree-law No. 75/97 both of 29 December.
5. Regulations Based on Science: regulations governing animal and plant health and food safety shall be based on scientific evidence.	5. Articles 2.2, 3.3 and 5.2.	As of now, there is no legal instrument that establishes or describes or requires animal and plant health, and food safety to be based on scientific evidence.
6. Harmonization: to the extent possible, members shall follow international standards, guidelines, and recommendations in establishing SPS measures.	6. Articles 3.1, 3.3 and 3.4.	Same as in 3 b. above. Cape Verde is a member of the Codex Alimentarius Commission and the International Plant Protection Convention, but is not a member of the International Office of Epizootics.
7. Equivalence: members shall recognize different measures that achieve the same level of protection.	7. Article 4.	Although there are no legal instruments to express the equivalence provisions of the SPS Agreement, Cape Verde is not in a position to exercise this provision without establishing a food law and developing the equivalent control measures that most countries have to benefit from this concept.
8. Risk Assessment: developing scientific evidence and conducting risk assessments to ensure that measures are based on science and applied only to the extent necessary to protect health.	8. Article 5.1, 5.2 and 5.3.	As a member of Codex, the Codex standards can be applied to establish an acceptable level of protection for food safety. However, assuring the public of this level of protection from unsafe and poor quality food requires control measures which are absent due to legal, infrastructural, financial, and technical capability and to capacity deficiencies.

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
9. Regional conditions: measures take into account the regional characteristics both of the areas from which products originate and the areas for which they are destined.	9. Article 6 and Annexes A.6 and A.7.	This provision is currently a non-applicable, since Cape Verde does not have capability or capacity to exercise control measures over imported food, and has little opportunity to do any more but poor control of live animal and plant protection activity.
10. Non-discrimination: measures do not arbitrarily or unjustifiably discriminate between different members or between domestic and foreign suppliers.	10. Article 2.3, and Annex C.1 (a) and (d).	Same as above
11. Control, inspection and approval procedures: ensure that procedures, including systems for approval of the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs comply with the Agreement.	11. Article 8 and Annex C.	The lack of Control, Inspection and Approval Procedures is the greatest impediment to Compliance with SPS. Many units for control, inspection and approval were created but there is no law and regulations dealing with procedures and systems to approve the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs compliance with the Agreement.

Check-list of Illustrative TBT Issues for Consideration in Accessions

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
1. Standstill: the introduction of new standards, technical regulations and conformity assessment procedures should be fully compatible with the TBT Agreement	1. Generally agreed principle in WTO accession negotiations	The Government of Cape Verde is committed to complying with requirements of the TBT Agreement. As a LDC, it recognizes that both financial and technical resources will be required to achieve the level of compliance.
2. Submission of Statement on Implementation	2. Artigos 15.2 and TBT Committee Decision (G/TBT/1)	Cape Verde has already a WTO Unit. This is a function of the WTO Unit.
3. Establishment and operation of a single Contact Point for Information ("inquiry point")	3. Artigo 10	There is no Inquiry Point for TBT matters. The future Inquiry Point will be, within the Ministry responsible for Trade, the Trade Policy/WTO Unit.
4. Identification of authority responsible for notifications, publications and other internal procedures to ensure transparency obligations are met on an ongoing basis:	4. Artigos 2, 3, 5, 7, 10, 15.2, Anexo 3 e G/TBT/1	These provisions have not been met and will not be in compliance until an SPS Enquiry Point is established (as part of the accession process) together with the WTO Unit which is the focal point.
(a) Identification of publication where notices of proposed technical regulations and conformity assessment procedures will appear;	(a) Artigos 2.9.1, 3.1, 5.6.1, 7.1, 10.1.5	All laws, rules, regulations, advertisement public notice for the purpose of enforcement must be published in the Official Bulletin, according to the Constitution.
(b) Identification of authority responsible for making notifications to the WTO;	(b) Artigos 2.9.2, 2.10.1, 3.2, 3.3, 5.6.2, 5.7.1, 7.2, 7.3, 10.7, 10.10	Trade Policy/WTO Unit through the Ministry in charge of Trade Policy.

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
(c) Guidance/law to ensure regulatory authorities afford non-discriminatory consideration of comments in the preparation of a final regulation;	(c) Artigos 2.9.4, 2.10.3, 3.15 3.3, 5.6.4, 5.7.3, 7.1, 7.3	As of now, there is no legal instrument on this issue.
(d) Guidance/law to ensure regulatory authorities allow a reasonable period of time between the final publication of a technical regulation and conformity assessment procedure and its entry into force so that suppliers can adapt;	(d) Artigos 2.11, 2.12, 3.1, 5.8, 5.9, 7.1	Measures provided in the Constitution – Articles 255 to 264; Civil Code - Articles 3, 5 and 7; Decree No. 74/92 of 30 June 1992 - Articles 1, 5 and 6; Decree-law No. 21/2002 of 24 August 2002. There is no reason for applying them under the TBT Agreement.
(e) Publication and notification of work programme for standards and non-governmental conformity assessment procedures, including publication of notices of draft standards and an opportunity for public comment.	(e) Artigos 4, Anexo 3 (J, K, L, N, O); Artigo 8.1	Same as above.

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
5. Development and Application of Technical Regulations and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	5. Artigos 2, 3, 5, 6, 7	As of now, there are no legal instruments that establish or describe standards or technical regulations in Cape Verde. Within the Government of Cape Verde, there is no agency or organization responsible for TBT activities.
(a) non-discrimination with respect to the treatment of products;	(a) Artigos 2.1, 3.1, 5.1, 5.2, 7.1	O mesmo que acima.
(b) the prohibition of unnecessary obstacles to international trade and the consideration of less trade-restrictive alternatives to fulfilling legitimate objectives;	(b) Artigos 2.2, 3.1, 5.1, 5.2, 7.1	O mesmo que acima.
(c) the ongoing review of technical regulations to ensure they are appropriate to achieve the desired legitimate objective;	(c) Artigos 2.3, 3.1, 7.1	O mesmo que acima.
(d) the consideration of appropriate international standards, guides and recommendations as a basis for technical regulations and conformity assessment procedures;	(d) Artigos 2.4, 3.1, 5.4, 7.1	O mesmo que acima.

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
(e) the consideration of equivalent technical regulations of other Members;	(e) Artigos 2.7, 3.1, 7.1	O mesmo que acima.
(f) the acceptance of the results of conformity assessment procedures conducted by bodies in an exporting Member country;	(f) Artigos 6, 7.1	O mesmo que acima.
(g) non-discriminatory and cost-based fee structure.	(g) Artigos 5.2, 7.1, 10.4	O mesmo que acima.
6. Development and Application of Standards and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or "reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	6. Artigo 4 e Anexo 3, Artigo 8	As of now, there are no legal instruments that establish or describe standards or technical requirements in Cape Verde. Within the Government of Cape Verde, there is no agency or organization responsible for TBT activities.
(a) non-discrimination with respect to the treatment of products;	(a) Anexo 3 (D), Artigo 8.1	Same as above
(b) the prohibition of unnecessary obstacles to international trade;	(b) Anexo 3 (E), Artigo 8.1	Same as above.
(c) the consideration of appropriate international standards, guides and recommendations as a basis for standards;	(c) Anexo 3 (F), Artigo 8.1	Same as above.

Commitments (by the time of accession)	WTO Reference	Status (as of 29 September 2003)
(d) non-discriminatory and cost-based fee structure.	(d) Anexo 3 (M), Anexo 3 (P), Artigos 8.1, 10.4	Same as above.

Table 15: ACC 9: TRIPS

WORLD TRADE ORGANIZATION	<u>RESTRICTED</u> WT/ACC/CPV/5 13 January 2004 (04-0094)
Working Party on the Accession of Cape Verde	Original: English

Accession of Cape Verde

Implementation of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS)

The following submission dated 22 December 2003, is being circulated at the request of the delegation of Cape Verde.

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Compliance with Articles 1 through 12 and Article 19 of the Paris Convention for the Protection of Industrial Property in respect of Parts II, III, and IV of the TRIPS Agreement. TRIPS Article 2.	<p>Cape Verde is in the process of joining the Paris Convention (projected date: July 2004).</p> <p>Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant.</p> <p>An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.</p>
Under Paris, Article 1(2), industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition.	O mesmo que acima
In Paris. Article 1(3), industrial property applies not only to industry and commerce proper, but to agricultural and extractive industries and to all manufactured or natural products, e.g., wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour.	O mesmo que acima
Under Paris, Article 2, nationals of Members are to enjoy in other Members the advantages that their respective laws grant to nationals, and shall have the same protection and the same legal remedy against any infringement of their rights if they conform to the conditions and formalities imposed upon the Member's nationals.	O mesmo que acima
Paris. Article 3, requires that nationals of non-Member countries domiciles or that have "real and effective" industrial or commercial establishments in a Member country be treated as nationals of a Member country.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Under Paris, Article 4.a right of priority is to be given an applicant for a patent, for registration of a utility model, an industrial design, or of a trademark who has filed the equivalent of a regular national filing under the domestic legislation of a Member country. The periods of priority are to be 12 months for patents and utility models, and six months for industrial designs and trademarks. The Article discusses the technical details of granting priority in depth.	O mesmo que acima
Article 4 <i>bis</i> states that patents obtained for the same invention in various members of the Paris Union are independent of each other.	O mesmo que acima
Article 4 <i>ter</i> requires that inventors have the right to be named as such in the patent.	O mesmo que acima
Under Article 4 <i>quater</i> restrictions or limitations on the sale of a patented product or a product produced by a patented process cannot be the grounds for refusing a patent or invalidating one already issued. Under Article 5(A)(1), importation of a patented product manufactured in a Paris Union country cannot be the basis of forfeiture of the patent. Article 5(A)(2) and (3) authorize countries to use compulsory licensing as a means to prevent abuses, such as the failure to work, but they may not forfeit a patent unless the grant of a compulsory license would not be sufficient to prevent the abuse. Proceedings for forfeiture or revocation cannot be institute until two years after the grant of the first compulsory license.	O mesmo que acima
Article 5(A)(4) prohibits application for a compulsory license for failure to work until four years have passed since tile application was filed or three years from date of grant and no compulsory license is to be granted if the patentee justifies the failure to work. Licenses are to be non-exclusive, and may not be transferred except with the enterprise or goodwill that exploits the license. Article 5(B) prohibits forfeiture of industrial designs for failure to work or for importing articles corresponding to those that are protected.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Article 5(C) prohibits cancellation of a mark for unjustified non-use before a reasonable period of time has passed and permits the proprietor to use differing elements that do not diminish the distinctive character of a mark without invalidating the registration or diminishing the protection granted the mark. Concurrent use of the mark by co-proprietors is permitted so long as the public is not misled.	O mesmo que acima
Under Article 5(D), protection of patents, registered trademarks, and industrial designs cannot	O mesmo que acima
Article 5 <i>bis</i> requires that a grace period of at least six months be provided for the payment of maintenance fees for industrial property, but a surcharge is permissible. Countries are authorized to restore patents that lapsed for non-payment of fees.	O mesmo que acima
Article 5 <i>ter</i> prohibits a Paris Member from making use of patented devices aboard a vessel, aircraft, of land vehicle temporarily or accidentally in the territory or the Member.	O mesmo que acima
Article 5 <i>quater</i> requires that process patent owners have all the rights against an imported product produced by the patent process that they would have with respect to products manufactured at home.	O mesmo que acima
Article 5 <i>quinquies</i> requires that Paris Members protect industrial designs.	O mesmo que acima
Article 6 makes the conditions for filing and registration of trademarks subject to domestic legislation but also makes filing and registration independent of those in other countries, including the country of origin.	O mesmo que acima
Article 6 <i>bis</i> requires parties, ex officio if legally possible or at the request of an interested party, to refuse to register or, for a period of at least five years, to cancel the registration of a trademark confusingly similar to a well-known mark. No time limit is placed on a mark used in bad faith.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Article 6 ^{ter} requires Members to refuse to register or to invalidate the registration that includes, without authorization, armorial bearings, flags, state emblems, official signs and hallmarks, etc. An exception is provided for owners of rights acquired in good faith before the Convention entered into force for that country.	O mesmo que acima
Article 6 ^{quater} makes the assignment of a mark valid if the portion of the business or goodwill of the business together with the exclusive right to manufacture and sell the goods bearing the mark are also transferred.	O mesmo que acima
Article 6 ^{quinquies} requires that trademarks duly registered in a Member be accepted for filing in other Members, with certain reservations, and establishes the conditions under which a trademark may be denied registration or may be invalidated.	O mesmo que acima
Article 6 ^{sexties} states that Paris Members undertake "to protect service marks without being required to provide for their registration.	O mesmo que acima
Article 6 ^{septies} requires that trademark owners be able to oppose or request cancellation of a registration of their trademarks applied for by their agent or representative without their authorization "unless the agent or representative justifies his action.	O mesmo que acima
Article 7 states that the nature of the goods to which a trademark is applied may in no case be an obstacle to the registration of the trademark. (Duplicate language is in TRIPS Article 15.4.)	O mesmo que acima
Article 7 ^{bis} requires that Members permit registration of collective marks belonging to associations the existence of which is not contrary to the law of the country of origin, even where the association is not established in the country where protection is being sought.	O mesmo que acima
Article 8 requires that trade names be protected by Members without the necessity of registration, whether or not the names are part of a trademark.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Article 9 requires seizure on importation or exclusion of goods bearing a trademark or trade name without authorization, unless a country's laws provide for neither remedy, in which case domestic actions and remedies must be available.	O mesmo que acima
Article 10 applies the obligation of Article 9 to the direct or indirect use of false indications of source of goods, or false indication of the producer, manufacturer, or merchant of such goods.	O mesmo que acima
Article 10bis requires Members to provide protection against unfair competition, including against acts that create confusion of various kinds about the goods or activities of a competitor, that consist of false allegations about a competitor, or that are apt to mislead the public regarding a competitor's goods.	O mesmo que acima
Article 10ter requires that Members undertake to assure to foreign nationals effective legal remedies to repress actions referred to in Articles 9, 10 and 10bis, and to allow federations and associations representing foreign businesses, on the basis of reciprocity, to take action in court and before administrative authorities to repress such acts.	O mesmo que acima
Article 11 requires that temporary protection, consistent with domestic legislation, be afforded to patentable inventions, utility models, industrial designs and trademarks in respect of goods exhibited at official or officially recognized international exhibitions held in their territory.	O mesmo que acima
Article 12 requires Members to establish industrial property offices for patents, utility models, industrial designs and trademarks for the communication to the public through publication of a periodic journal of the names of patent owners with a brief designation of their inventions, and the reproduction of trademarks.	O mesmo que acima
Article 19 authorizes Members to enter into separate and special industrial property agreements among themselves, so long as those agreements do not contravene the provisions of Paris.	O mesmo que acima
National treatment, with exceptions allowed in the Paris, Berne and Rome Conventions. Article 3.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Most favoured nation treatment, with enumerated exceptions. Article 4.	O mesmo que acima
Copyright and Neighbouring Rights	Citation to copyright and related laws
Compliance with Articles I through 21 of the Berne Convention with the exception of Article 6 <i>bis</i> , Article 9.1.	Cape Verde's Copyrights Law was enacted in 1990. Cape Verde adhered to the Berne Convention in 1996. Consequently, some provisions of the Copyrights Law may be inconsistent with Article 9 of the Trips Agreement. An Action Plan applicable to Cape Verde's Intellectual Property Regime is being prepared and will be submitted to the WTO in early 2004. The Action Plan will include those aspects and provisions of the Copyrights Law that will be revised.
Article 2 defines "literary and artistic works" as "every production in the literary, scientific and artistic domain whatever may be the mode or form of its expression," giving examples. Limitations related to speeches are provided in Article 2 <i>bis</i> .	O mesmo que acima
Article 3 requires that protection be provided to the works of authors who are nationals of Berne Union members and to works of nationals of non-Union countries if those works are published in a Union member simultaneously with publication in the non-Union country.	O mesmo que acima
Article 4 requires that protection be provided cinematographic works not falling under Article 3 if the maker has a headquarters or habitual residence in a Union member and to works of architecture or artistic works incorporated into a building or structure in a Union member.	O mesmo que acima
Article 5 requires that authors enjoy the rights required by Berne and any other rights a country provides works on a national treatment basis without being subject to any formalities.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Article 7 requires that the term of protection for copyright be 50 years following the death of the author. Special terms are authorized for cinematographic works, anonymous or pseudonymous works, photographic works and works of applied art. Article 8 gives authors of protected works the exclusive right to make or authorize the making of translations of the work.	O mesmo que acima
Article 9 requires that authors be given the exclusive right to authorize reproduction of the work in any manner or form with only limited exceptions that do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.	O mesmo que acima
Articles 10 and 10 <i>bis</i> define certain authorized "free uses of works".	O mesmo que acima
Articles 11, 11 <i>bis</i> , and 11 <i>ter</i> require that authors of dramatic, dramatico-musical and musical works and any translation thereof and authors of literary and artistic works, the exclusive right to authorize the public performance of their works, including by broadcast, public recitation and any communication to the public.	O mesmo que acima
Article 12 requires that authors of literary or artistic works have the exclusive right to authorize adaptations, arrangements and other alterations of their works.	O mesmo que acima
Article 13 authorizes countries to impose reservations and conditions on the exclusive right granted authors of musical works or written works that are recorded.	O mesmo que acima
Articles 14 requires that authors of literary and artistic works have the exclusive right to authorize the cinematographic adaptation and reproduction of their works and the distribution, public performance and communication to the public of the adaptation or reproduction, without the limitations authorized under Article 13(1).	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Article 14 ^{bis} specifies that a cinematographic work is to be protected as an original work without prejudice to any work that is adapted or reproduced and the author of the cinematographic work is to enjoy the same rights as the author of any other work.	O mesmo que acima
Article 14 ^{ter} requires "droit de suite" in connection with subsequent sales works of art and manuscripts.	O mesmo que acima
Article 15 requires that ownership of a work, for purposes of litigation, be presumed to be that which appears on the work in the usual manner.	O mesmo que acima
Article 16 requires that infringing copies of a work be subject to seizure whether domestically produced or imported.	O mesmo que acima
Article 18 requires that copyright protection be applied to all works which, at the moment Berne becomes effective, have not fallen into the public domain in the country of origin through the expiry of the term of protection.	O mesmo que acima
Article 19 authorizes Union members to provide greater protection than that required by the Convention.	O mesmo que acima
Article 20 authorizes Union members to enter into special agreements among themselves to provide more extensive rights than those provided by Berne.	O mesmo que acima
Protect computer programs, whether in source or object code, as literary works under the Berne Convention. Protect compilations of data, whether in machine-readable or other form are to be protected as intellectual creations if they constitute such. Article 10.	O mesmo que acima
Provide rental rights at least for computer programs and cinematographic works with certain exceptions. Article 11.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Provide a term of protection of fifty years from the death of the author (Berne Article 7.1 and TRIPS Article 9.1) or, for works the term of which is not measured by the life of the author, a term of 50 years from the end of the calendar year of authorized publication, or, if not published within fifty years from making, fifty years from the end of the calendar year of making. Article 12.	O mesmo que acima
Confine limitations and exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the right holder's legitimate interests. Article 13.	O mesmo que acima
Provide performers with the right for 50 years from the date of a performance to prevent unauthorized fixation of their unfixed performances and of reproductions of such fixations and to prevent the unauthorized broadcast by wireless means and communication to the public of their live performances. Article 14.1 and 5.	O mesmo que acima
Provide phonogram producers with the right for 50 years from the date of first authorized fixation to prohibit unauthorized reproduction of their phonograms, directly or indirectly, and to prohibit rental of copies of their phonograms once sold or otherwise distributed. Article 14.2, .4, and .5.	O mesmo que acima
Providing broadcasting organizations with the exclusive rights for 20 years of fixation, reproduction of fixations, and re-broadcasting by wireless means of their broadcasts and the communication to the public of broadcasts of their broadcasts or provide to the owners of the copyright in the material broadcast the possibility of exercising such rights. Article 14.3 and 5.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Trademarks	Citation to appropriate law
Provide trademark or service mark protection for any sign, or combination of signs capable of distinguishing the goods or services of one undertaking from those of other undertakings. Article 15.1	Cape Verde is in the process of joining the Paris Convention (projected date: July 2004). Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant. An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.
Not deny registration for a mark based solely on the nature of the goods or services to which a trademark is to be applied. Article 15.4.	O mesmo que acima
Trademarks must be published before or shortly after registration to permit opposition or opportunity to apply for cancellation. Article 15.5.	O mesmo que acima
Provide trademark owners the exclusive right to prevent unauthorized use identical or similar marks for similar goods or services of other parties if confusion is likely to result. Article 16.1	O mesmo que acima
Presume confusion where an identical mark is used without authorization on identical goods or services. Article 16.1.	O mesmo que acima
Provide protection for well know trademarks and service marks in accordance with Article 6bis, of the Paris Convention, even where use is on goods or services which are not similar to those in respect of which a trademark is registered if the latter use would imply a connection with the right holder or would be likely to damage the right holder's interests. Article 16.2 and .3.	O mesmo que acima
Allow only limited exceptions to the rights conferred by a trademark such as fair use of descriptive terms. Article 17.	O mesmo que acima
Provide a period of protection for registration of at least seven years, renewable indefinitely. Article 18.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Allow cancellation for non-use only after a period of three years of uninterrupted non-use unless valid reasons exist for the non-use, including government interference with use. Article 19.1.	O mesmo que acima
No encumbering of the use of a trademark by special requirements. Article 20.	O mesmo que acima
May establish conditions for licensing but compulsory licensing not permitted and owner of registered mark must be able to assign it with or without transfer of business. Article 21.	O mesmo que acima
Geographical Indications	Citation to appropriate law or laws
Provide means to prevent deceptive use of Geographical indications identifying location where a given quality, reputation or other characteristic of a good is attributable to its location. Article 22.1 and 2. Refuse to register or invalidate registrations of trademarks containing geographical indications except in instances in which such marks have been used continuously for at least 10 years or in good faith before 15 April 1994. Article 22.3	Cape Verde is in the process of joining the Paris Convention (projected date: July 2004). Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant. An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.
Protect against use of geographical indications even when literally true but which falsely represent that the goods originate in another territory. Article 22.4	O mesmo que acima
Protect, with certain exceptions, appellations or origin for wines and spirits even against use accompanied by expressions such	O mesmo que acima
Protect, with certain exceptions, appellations or origin for wines and spirits even against use accompanied by expressions such as "kind," type," "style," etc. Article 23.1 and 24.	O mesmo que acima
Refuse or invalidate, with certain exceptions trademark registrations containing geographical indications for wines and spirits if they do not originate in the place named. Article 23.2 and 24.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Industrial Designs	Citation to appropriate law
Provide, with certain exceptions, protection for new or original, independently created industrial designs. Article 25.1.	<p>Cape Verde is in the process of joining the Paris Convention (projected date: July 2004).</p> <p>Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant.</p> <p>An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.</p>
Ensure that requirements for securing protection for textile designs are not prohibitive of such protection. Article 25.2.	O mesmo que acima
Protection should last at least 10 years.	O mesmo que acima
Patents	Citation to appropriate law
Provide patents for any inventions, whether products or processes, in all fields of technology if they are new, involve an inventive step and are industrially applicable. Exceptions are permitted for plants and animals, except for microorganisms and non-biological and microbiological processes. Exemptions are also permitted for reasons of order public and morality. Article 27.	<p>Cape Verde is in the process of joining the Paris Convention (projected date: July 2004).</p> <p>Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant.</p> <p>An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.</p>
Provide patent owners with the right to prevent others from making, using, offering for sale, selling or importing a patented product or from using a patent process or using, offering for sale, selling or importing a product produced directly using such process. Article 28.1.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Give patent owners the right to assign the rights in the patent, or transfer the rights by succession, or license them. Article 28.2	O mesmo que acima
Require applicants to disclose the invention so that one skilled in the art can carry it out and may require indication of the best mode and information on corresponding foreign applications. Article 29.	O mesmo que acima
Ensure that any exceptions to exclusive patent rights do not unreasonably conflict with normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking third party interests into account. Article 30.	O mesmo que acima
Compulsory licenses can be issued only when enumerated conditions are met, including such things as notice, remuneration, limitations on use and transfer of the license, etc. Article 31.	O mesmo que acima
Provide an opportunity for judicial review of decisions to revoke or forfeit a patent. Article 32.	O mesmo que acima
Provide a patent term of at least 20 years from the filing date. Article 33.	O mesmo que acima
Shift the burden of proof in process patent infringement actions to the defendant in instances in which the product produced by the process is new or where it is substantially likely that the identical product was made using the process and the patent owner has been unable through reasonable efforts to determine the process used. Article 34.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Integrated-Circuit Layout Designs	Citation to appropriate law
Provide protection for original layout designs of integrated circuits that are registered or have been commercially exploited anywhere in the world. Articles 3, 4, 5, and 7 of the Washington Treaty as incorporated into TRIPS by Article 35.	<p>Cape Verde is in the process of joining the Paris Convention (projected date: July 2004).</p> <p>Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant.</p> <p>An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.</p>
Make unlawful, except in certain circumstances, the reproduction, importation, sale or other distribution of a protected layout design or an integrated circuit embodying such design or an Article containing such a microcircuit. Article 6 of Washington and Article 36 of TRIPS.	O mesmo que acima
Provide such protection for a term of 10 years from the films, of an application for registration or from first commercial exploitation. Article 38.	O mesmo que acima
Undisclosed Information	Citation to appropriate law or laws
Provide protection for undisclosed information that is secret (not generally known or readily ascertainable); has commercial value because of its secrecy., and has been subject to reasonable steps to keep it secret. Article 39.2.	<p>Cape Verde is in the process of joining the Paris Convention (projected date: July 2004).</p> <p>Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant.</p> <p>An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.</p>
Protect data submitted to obtain marketing approval for pharmaceutical or agricultural chemicals utilizing a new chemical entity. Article 39.3.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Enforcement	Citation to appropriate law or laws
General Provisions	
Provide for effective action against infringement of intellectual property rights without creating barriers to legitimate trade or opportunities for abuse. Article 41.1	Cape Verde is in the process of joining the Paris Convention (projected date: July 2004). Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant. An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.
Provide enforcement procedures that are fair and equitable and are not unnecessarily complicated or costly and do not entail unreasonable time limits or unwarranted delays. Article 41.2	O mesmo que acima
Provide decisions on the merits based upon the evidence presented in the case to the parties, preferably in writing with the reasons explained. Article 41.3.	O mesmo que acima
Provide for appeals to judicial bodies of final administrative decisions and of at least the legal aspects of initial judicial decisions on the merits of a case. Article 41.4.	O mesmo que acima
Civil and Administrative Procedures and Remedies	O mesmo que acima
Provide a procedure that allows plaintiffs to bring an action for infringement; requires that defendants be notified; permits both side to present evidence in support of their position; and protects confidential information. Article 42	O mesmo que acima
Authorize judges to order production of evidence necessary to substantiate a party's claims where that party has been unable to obtain such evidence from the opposing party. Article 43. 1.	O mesmo que acima
Authorize judges to enjoin a defendant, except the government, from infringing intellectual property rights. Article 44. 1.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Authorize judges to order the payment of monetary damages adequate to compensate for the injury done by the infringement. Article 45.1	O mesmo que acima
Authorize judges to order infringer to pay right holders enforcement costs and recovery of profits and/or statutory damages. Article 45.2.	O mesmo que acima
Authorize additional remedies including seizure of infringing goods, and the materials and implements the predominant use of which is infringement. Article 46.	O mesmo que acima
Authorize indemnification of defendant, including attorneys' fees in the event of abuse by plaintiffs. Article 48.1.	O mesmo que acima
Exempt public authorities and officials from liability in connection with the administration of intellectual property laws only where the actions are taken or intended in good faith within the scope of the relevant authority. Article 48.2.	O mesmo que acima
Ensure that administrative remedies conform to the principles in the preceding Articles. Article 49.	O mesmo que acima
Provisional Measures	
Authorize judges to grant temporary restraining orders and provisional relief to prevent infringement and to preserve evidence. Article 50.1.	<p>Cape Verde is in the process of joining the Paris Convention (projected date: July 2004).</p> <p>Cape Verde is drafting an Industrial Property Law based on the 2003 Industrial Property Law of Portugal that is TRIPS and EU compliant.</p> <p>An "Action Plan" covering enactment and implementation of the Industrial Property Law will be submitted to the WTO in early 2004.</p>
Authorize judges to require the complaining party to indemnify the defending party against harm if the decision on the merits finds the provisional relief unjustified. Article 50.3.	O mesmo que acima
Provide for notice, for formal action by the plaintiff after temporary restraining orders, etc. Article 50.4+.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Medidas de Fronteira	
Provide for suspension of release by customs authorities of goods suspected of bearing a counterfeit trademark or of being a piratical copyrighted work, either at the request of a right holder. Members are authorized to extend such protection to holders of other forms of intellectual property, Article 51	Cape Verde is drafting a Customs Code. Border enforcement of intellectual property rights will be included in the new Customs Code. A "General Legislative Action Plan" including enactment and implementation of the Customs Code will be submitted to the WTO in early 2004
Require right holders initiating border measures to provide evidence of a prima facie infringement and a description of the goods sufficient for customs authorities to recognize them. The right holder must be notified within a reasonable time if action will be taken on his behalf. Article 52	O mesmo que acima
Authorize authorities to require the right holder requesting border measures to post a bond sufficient to protect the defendant and to prevent abuse. Article 53	O mesmo que acima
Requires prompt notification of the right holder and the importer when action under Article 51 is taken. Article 54	O mesmo que acima
Requires that customs authorities be notified within a maximum of 20 days of the receipt of notice that proceedings on the merits have begun or the suspension is to be revoked. Article 55	O mesmo que acima
Authorities must be authorized to require the right holder to compensate the importer or owner of the goods subject to border measures if goods were wrongfully detained or if proceedings leading to a decision on the merits are not begun within the allotted time. Article 56.	O mesmo que acima
Right holders must be allowed to inspect the detained goods in order to substantiate the right holder's claims. Importers must be given similar authority. Members may give the right holder the names and addresses of those involved in the importation when infringement is found to exist. Article 57.	O mesmo que acima

TRIPS AGREEMENT	CAPE VERDE
GENERAL OBLIGATIONS	IP AGREEMENTS TO WHICH THE COUNTRY ADHERES
Establishes the conditions that must be in place if customs authorities are authorized to act ex officio, including the ability to ask the right holder for information at any time; the requirement to notify the importer promptly of the suspension; and the requirement that public officials be liable if they act in bad faith. Article 58	O mesmo que acima
Competent authorities must be able to order destruction or disposal other than by re-export of infringing goods where appropriate. Article 59	O mesmo que acima
Members are authorized to except from border measures small quantities of infringing goods of a non-commercial nature carried in personal luggage or shipped in small consignments. Article 60	O mesmo que acima
Procedimentos Criminais	
Provide criminal procedures and penalties, sufficient to act as a deterrent, for wilful trademark counterfeiting or copyright piracy on a commercial scale. Authorizes extension of criminal actions to other forms of intellectual property where infringements are wilful and on a commercial scale. Article 61.	<p>Cabo Verde está no processo de aderir à Convenção de Paris (data prevista: Julho de 2004).</p> <p>Cabo Verde está no processo de preparar uma Lei de Base da Propriedade Industrial baseada na Lei da Propriedade Industrial de Portugal de 2003 que se conforma com TRIPS e a UE.</p> <p>Um "Plano de Acção" dando cobertura à aprovação e implementação da Lei da Propriedade Industrial será apresentado à OMC no início de 2004.</p>

Table 16 : General Legislative Action Plan

Present Status and Agenda for Cape Verde's Law-making Process for WTO Accession

No.	Subject	Legislation	Ministry in charge	Completion Date
1.	Instrument of Ratification of WTO Agreement	Protocol of Accession	Council of Ministers will submit to the National Assembly when WTO approves membership	December 2004
2.	Customs Code	Drafting of new Customs Code	Ministry of Finance Customs Department	December 2004
3.	Arbitration & mediation	Law on arbitration and mediation	Ministry of Justice	December 2004
4.	Commerce	Law on Commerce (Law 5/99 amendment)	Ministry of Economy	December 2004

Table 17: Customs Action Plan

ACTION PLAN

Implementation Plan for the Agreement on the application of art. VII of the GATT of 1994

Agreement on GATT Value	Actions to be developed, including law proposals and regulations on specific topics	Time-Table conclusion	Observations
to a Customs Code for Cape Verde, that includes the provisions of the GATT on the Customs Code	A Cape Verdian Customs Code shall be elaborated and it should in conformity with the WTO requisites and the WCA standards	By 1st Semester of 2005	Legislative Action Plan shall include Customs Code Time-Table Código Aduaneiro.
Customs Code	Seminars and Workshops on the Customs Code.	By Sept. 2005	Without technical assistance
Customs Code	Adaptation and familiarization of the Customs Code, by the user.	By Sept. 2005	Without technical assistance
Customs Code	Evaluation of the Customs Code implementation	June 2007	Without technical assistance
Accession to the WTO on	Workshops, seminars, functionaries		

Booz Allen Hamilton

	study and training visits.	2005/2008	Requires technical assistance
n of a technologic tion cluding a data base ion	Data base for the evaluation of risks is is fundamental to the implementation of the WTO Agreement of Value	2005/2008	Requires technical assistance. The automatic information collection has to be updated with the Sydonia Plus Plus information System
ng course on the ment on Value.	Seminar/Workshop on the principles of the GATT/WTO Agreement of Value	Feb./Mar. 2004	Technical assistance shall be provided by the Booz Allen USAID WTO Accession Project.
1 - Transactional f d merchandise.	Provisons to be included in the Customs Code	By 1st Semester of 2005	Without tecnical assistance
3 - Adjustment to tional value of d ndise.	C Code	By 1st Semester of 2005	Without tecnical assistance
2 - Transactional f l merchandise.	Provisons to be included in the Customs Code	By 1st Semester of 2005	Without tecnical assistance
4 - Inverse tion of uctive and the ed do.methods	Provisons to be included in the Customs Code	By 1st Semester of 2005	Without tecnical assistance
	Provisons to be included in the	By 1st	

Booz Allen Hamilton

5 - Deductive	Customs	Semester	
	Code	of 2005	Without technical assistance
6 - Calculated	Provisions to be included in the Customs	By 1st Semester	
	Code	of 2005	Without technical assistance
9 - Currency ion.*	Provisions to be included in the Customs	By 1st Semester	* Requisites pertaining to currency shall
	Code	of 2005	be incorporated in the Customs Code , rather than being in a specific provision.
10 - Confidential tion.	Provisions to be included in the Customs	By 1st Semester	
	Code	of 2005	Without technical assistance
11 - Importer's appeal termination of s Value Customs	Provisions to be included in the Customs	Até ao 1º Semetre	
	Code	de 2005	Without technical assistance
12 - Publication of t d regulations	Provisions to be included in the Customs	By 1st Semester	
	Code	of 2005	Without technical assistance
13 - Guarantees g merchandise	Provisions to be included in the Customs	By 1st	
	Code		Without technical assistance

Booz Allen Hamilton

		Semester	
		of 2005	
15 - Definition of ions in the nation of	Provisons to be included in the Customs	By 1st Semester	Without tecnical assistance
Pro.Customs Value	Code	of 2005	
16-Importer's right tten tion from the s ies on the nation of s Value.	Provisons to be included in the Customs	By 1st Semester	Without tecnical assistance
	Code	of 2005	
17 - Customs right ion icity or exactness on, document or ion ed for the purpose ning the Customs	Provisons to be included in the Customs	By 1st Semester	Without tecnical assistance
	Code	of 2005	
14 - Establishes s I, II and III are parts greement	Provisons to be included in the Customs	By 1 Sept. 2005	Without tecnical assistance
	Code		
cal training on	Course to train trainers for selected		

Booz Allen Hamilton

ation	Customs functionaries identified as having the capacity to teach.	Oct./Nov. 2006	Requires technical assistance
oms Value.			
n of a technical tion including a ce data the value of al or goods.	The data base for the evaluation of identical or similar merchandise is vital to the imple- mentation of identical and similar merchan- dise transactional value (methods 2 and 3 applied sequentially).	2005 to 2008	Requires technical assistance
g on risk on	Workshops/seminars presented by specialists in "risc evaluation".	2007	Requires technical assistance
g on post ion or patch auditing*	Workshops/seminars on post declaration or post dispatch audits.	2005	Requires technical assistance * The Customs Code should contain requisites that obligate the importers and the declarers to make their books entries available for auditing
	Total implementation of the WTO Cuatoms Valuation Agreement	January 2009	

Total implementation of the Agreement on Customs Value must be attained by January 2009, at the latest, in conformity com a implementação do plano acima referido.

This action plan should be adjusted in conformity with the needs and the success of the implementation strategy.

Tables 18 - 19: Intellectual Property Action Plan

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

Table 18: PART A –Industrial Property

Cape Verde is in the process of acceding to the Paris Convention. Anticipated date of accession July 2004

	Laws and regulations	Timeframe for completion	Remarks
Trademarks Geographical Indications Industrial Designs Patents Layout Designs of Integrated Circuits Undisclosed Information	Industrial Property Rights enforced under Decree N.º 30 679 of 24 August 1940, which approved the Industrial Property Code applicable in Cape Verde by Ministerial Ordinance N.º 17 043 of 5 May 1959, published in Supplement to O. B. N.º 19 of 15 May 1959	Since 1954	Obsolete; new law needs to be drafted
	Industrial Property Law of Cape Verde *	January 2005	Technical assistance being provided by USAID
	Drafting of Industrial Property Law	June 2004	Technical assistance being provided by USAID
	Review and approval by Council of Ministers	September 2004	
	Review and approval by National Assembly Training of personnel involved in trademark	January 2005 2005	Technical assistance

	protection, customs officials and police		required
	Training of judges and lawyers	2005	Technical assistance required
	Establishment of Trademark Information Center	2005	Technical assistance required
Others	Reorganization and establishment of Industrial Property Offices	2005	Technical assistance required
Others	Computerization of Industrial Property Office	2005	Technical assistance and funding required
Others	Developing rules, regulations and work manuals	2004 – 20006	Technical assistance required
Others	Enhancing public awareness on the protection of intellectual property rights	Ongoing	Technical assistance required

* The Industrial Property Law of Cape Verde currently is being drafted. The CV Industrial Property Law will use the 2003 Industrial Property Law of Portugal as a model since it is in conformity with the WTO and EU requirements.

Table 19: PART B – COPYRIGHTS AND RELATED RIGHTS

Acceded to the Berne Convention in 1996

Copyrights and Related Rights	Laws and Regulations addressing the subject matter	Timeframe for Completion	Remarks
	Copyright Law provided for in Decree N° 107/90 of 8 December 1990, published in O. B. N° 49/1990	In force	Needs to be revised to conform to WTO requirements
	Revision of Copyright Law	January 2005	Technical assistance required
	Review of 1990 Law	March/April 2004	Technical assistance to be provided by USAID
	Drafting of revised Copyright Law	June/July 2004	Technical assistance to be provided by USAID

	Review and approval by Council of Ministers	September 2004	
	Review and approval by National Assembly	November 2004	
	Training of personnel involved in copyrights protection, customs officials * and police	2005	Technical assistance required
	Training of judges and lawyers	2005	Technical assistance required
	Establishment of Copyrights Information Center	2005	Technical assistance required
Others	Reorganization and establishment of Copyright Office	2005	Technical assistance required
Others	Computerization of Copyrights Office	2005	Technical assistance and funding required
Others	Developing rules, regulations and work manuals	2004 - 2006	Technical assistance required
Other	Enhancing public awareness on the protection of intellectual property (Copyrights) rights	2004 – 2006	Technical assistance required

* Such training includes special requirements related to border enforcement measures.

Interpretative Note: Full implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights would be achieved no later than December 2006 as per the implementation plans above.

Table 20: Technical Barriers to Trade Action Plan

On the Implementation of the Agreement of Technical Barriers to Trade

Agreement on Technical Barriers to Trade	Laws and regulations addressing the subject matter	<u>Timeframe for completion</u>	Remarks
Article 10: Establishment and operation of a single contact point for information (enquiry point)	Policy decision on the establishment of enquiry point	See ACC-8	Enquiry point will be Trade Policy/WTO Unit in the Ministry of Economy, Growth and Competitiveness
Article 2: Preparation, Adoption and Application of Technical Regulations by Central Government Bodies	Cape Verde has no capacity in the area of technical barriers to trade. We have no law, regulations nor an administrative body in the technical regulations area.		After accession, Cape Verde will develop and apply technical regulations as well notify the WTO Secretariat in accordance with Article 2.

Table 21: Sanitary and Phytosanitary Measures Action Plan

On the Implementation of the Agreement on Sanitary and Phytosanitary Measures

Agreement on the Implementation of SPS Measures	Laws and draft regulations addressing the subject matter (*)	Timeframe for completion	Remarks
Article 2.2 Measures applied on to the extent necessary to protect human, animal or plant life	Decree-Law 62/89, of 14 Sept. 1989 (O.B.36/89) Decree-Law 89/92, of 16 Jul 1992 (O.B.2/92, 1 st Ser.) Decree-Law 26/97, of 20 May 1997 (O.B.19/97, 1 st Ser.) Legislative-Decree 9/97, 8 May 1997 (O.B.17/97, 1 st Ser.) Minist.Ordinance No. 55/97, 9 Sept. (O.B. 34/97, 1 st Ser.)	By the end of 2004	These laws and respective regulations need to be rationalized into a single and comprehensive law.
Article 1: Regulation based on science	Upgrading of personnel (human resources) with special emphasis on quarantine management, meat inspection, veterinary investigation and animal disease risk analysis	First quarter 2006	Technical assistance required
	Upgrading and strengthening of quality control unit, laboratory, quarantine system and field veterinary system	End 2005	Technical assistance required
	Opening of new quarantine check post and		Technical assistance required

	development of pre and post quarantine facilities	2005	
Article 2.3 and Annex c.1 (a) and (d): Non-discrimination	Interim policy decision on Sanitary and Phyto-Sanitary Investigation	Upon accession	

(*) See List of laws attached to the Memorandum of Foreign Trade and to Answers to Questions from the USA.

Article 3.1, 3.3 and 3.4: Harmonization with international standards, guidelines and recommendations	Development of SPS guidelines and protocols	End 2004	Technical assistance required
Article 4: Equivalence	Above-mentioned law and regulations	End 2005	Technical assistance required
Articles 5.1, 5.2 and 5.3: Risk assessment to ensure that measures are based on science and applied only to the extent necessary to protect health	Above-mentioned law and regulations	2006-2007	Technical assistance required
Article 6 and Annexes A-6 and A.7: Regional conditions	Policy decision on Sanitary and Phyto-Sanitary Investigation Declaration of pest or disease free areas and areas of low pest or disease prevalence	Upon accession	Technical assistance required
Article 7 and Annex B: Establishment and operation of a single contact point for information (enquiry point)	Policy decision on the establishment of enquiry point	See ACC-8 2007	Location of enquiry point is: Ministry of Agriculture
Transparency: notification and	Acquisition of equipment and training of	End 2006	Technical assistance and funding

access to documentation	SPS enquiry point personnel		required
Article 8 and Annex C: Control, inspection and approval procedures for the use of additives or establishing tolerance for contaminants in food, beverages or feed stuffs comply with the agreement	Above-mentioned law and regulations	2005	Technical assistance required

Table 22: Action Plan Related To The Arbitration Law

No.	Subject	Legislation	Ministry	Completion Date
3	Arbitration	Arbitration Law	Ministry of Justice	Approval and publication during 2004

The Bill may cover, among others, the following aspects:

1. Definition of the Tribunal's competence.
2. Constitution of the Arbitrational Tribunal.
3. Scope of action.
4. Value of the decisions made by the tribunal and appeals.
5. Adaptation of the arbitration law of Cape Verde to the international judicial instruments that regulate the international arbitration matter, namely the United Nations' Conventions on International Commercial Arbitration and the Regulation of Arbitration of the International Chamber of Commerce.

Phases of the process

- | | |
|---|------------------------|
| 1. Conclusion of the project by the Ministry of Justice | March 2004 |
| 2. Appreciation by the Cabinet | June/July 2004 |
| 3. Remittance to the National Assembly, for decision | September 2004 |
| 4. Approval by the National Assembly | November/December 2004 |

Annex B – Cape Verde WTO Accession Status

Application Received	11 November 1999
Working Party Established Chairperson: Mr. David Shark (United States)	17 July 2000
Memorandum	1 July 2003
Questions and Replies	10 February 2004
Meetings of the Working Party	26 March 2004 8 December 2004 14 July 2005
Other Documentation	
(a) Additional Questions & Replies	24 March 2004 25 March 2004 13 June 2005 15 June 2005 11 October 2005
(b) Agriculture (WT/ACC/4)	14 January 2004 13 June 2005
(c) Services (WT/ACC/5)	14 January 2004
(d) SPS/TBT (WT/ACC/8)	14 January 2004
(e) TRIPS (WT/ACC/9)	14 January 2004
(f) Legislative Action Plan	25 March 2004 22 June 2005 25 March 2004 10 June 2005 25 March 2004 10 June 2005 25 March 2004 10 June 2005

	25 March 2004 10 June 2005 6 April 2004 10 June 2005 12 July 2005 20 July 2005
Market Access Negotiations	
Goods Offer	2 November 2004 30 November 2005
Services Offer	1 November 2004 30 November 2005
Factual Summary	25 October 2004
Draft Working Party Report	8 November 2005

Annex C – MARKET ACCESS ROAD MAP (UNITED STATES)

Accession of Cape Verde to the World Trade Organization Market Access Negotiations March 23, 2004

The points described below are designed to give Cape Verde a general road map of the U.S. approach to bilateral negotiations in goods market access. While the United States takes a flexible approach to all bilateral negotiations, closer adherence to these general principles by the WTO applicant will help to facilitate the discussions in market access and the accession process overall.

A. GENERAL PARAMETERS FOR MARKET ACCESS NEGOTIATIONS

With respect to goods market access, the U.S. approach to all WTO accession negotiations is framed by the following general principles. For least-developed country (LDC) applicants, the United States asks that applicants consider joining or participating in sectoral initiatives as fully as practicable in addition to adhering to the following principles.

1. Comprehensive tariff bindings on all goods: Tariff offers should be comprehensive, i.e., bindings on all non-agricultural as well as agricultural items.
2. Negotiations are conducted on the basis of current applied rates: Market access commitments on goods established in the context of negotiations for accession to the World Trade Organization (WTO) should yield commercially meaningful market access opportunities. Accordingly, tariff reduction commitments should begin from current applied rates. Applicants also will be encouraged to minimize the use of compound or minimum alternative tariff rates.
3. Staging: In cases where tariff concessions require significant reductions from current applied rates or for a limited number of particularly sensitive products, reasonable staging mechanisms will be considered, as appropriate. Such staging proposals should be implemented in equal increments and should not exceed five years. Our flexibility in accepting staging proposals is related to final end rates, in particular where they would result in substantial reductions beyond applied rates.
4. Non-tariff import barriers: All non-tariff import barriers in place during the negotiations that cannot be justified by specific GATT/WTO provisions should be eliminated at the time of accession. We also seek the limited use of special safeguards and quotas and will want to ensure they are consistent with WTO rules.

- Please provide some additional explanation on the “ICE” column included in Cape Verde’s tariff schedule. Is this an additional charge applied on top of the tariff? Any “other duties and charges” should be bound at zero upon accession.

5. Commitments on WTO Rules: Progress towards actual implementation of WTO provisions in areas like customs valuation, import licensing, sanitary and phytosanitary measures and technical barriers to trade is a significant factor in determining the overall commercial environment for trade and the final acceptability of the applicant’s tariff offer.

B. BILATERAL TARIFF NEGOTIATIONS

The United States seeks tariff commitments from applicants in three broad areas: (1) sectoral initiatives; (2) specific product-by-product requests for both agricultural and non-agricultural goods; and, (3) residual tariff rates. The U.S. request reflects the consultations undertaken through public comment and U.S. statutory requirements as outlined in the Uruguay Round Agreements Act, in particular, section 111. Negotiations will follow the general parameters outlined in points 1-3 above.

1. Sectoral Initiatives: As a starting point for all accession negotiations, the United States asks that applicants consider, as fully as practicable, participation in key sectoral initiatives. Strong offers from applicants in any of the following sectors will help to accelerate and narrow down the negotiating process:

- Information Technology Agreement
 - Chemical Tariff Harmonization
 - Textile Tariff Harmonization
 - The Agreement on Trade in Civil Aircraft
 - Duty-free sectoral initiatives in agricultural equipment, beer, construction equipment, distilled spirits, fish and fish products, furniture, medical equipment, non-ferrous metals, oilseeds and oilseed products, paper, pharmaceuticals, scientific equipment, steel, toys, and wood products.
- We note that Cape Verde already applies very low tariffs in the chemicals, pharmaceuticals, medical equipment, construction equipment, paper, and metals sectors (steel and non-ferrous metals), as well as for oilseeds and oilseed products. We encourage Cape Verde to consider joining these sectoral initiatives as these negotiations progress, since many of the products in these sectors are currently duty-free or meet international harmonization rates.
2. Specific requests on agricultural and non-agricultural products: After the extent of a country’s participation in the sectoral agreements is established, the United States will table a request for additional specific agricultural and non-agricultural products. The length of this specific request list will reflect the level of trade and vary inversely with the applicant’s rate of participation in the sectoral initiatives.

3. Residual Tariff Bindings: Remaining (residual) tariff levels should, in general, be bound at the applied rate but should not exceed 15 percent. In cases where current applied rates exceed the ceiling staging can be used.

C. TECHNICAL ISSUES

We have received Cape Verde's current applied tariff schedule and although we have not yet received a formal initial tariff offer, we have prepared a template file that includes Cape Verde's applied rates and outlines a format that can be used when constructing an initial tariff offer. Please also note that tariff offers should be divided into agricultural and non-agricultural schedules, based on WTO definitions.

The template file contains the following columns:

HTS6 - Cape Verde 6 digit tariff nomenclature

HTS8 - Cape Verde 8 digit tariff nomenclature

Sector - These indicators are used to label the Uruguay Round sectoral agreements as well as WTO plurilateral agreements

Description of product

MFN Applied Rate - please include the applicable year

IC

VAT

US Request

Initial Bound Rate Offer - to be completed by Cape Verde

Initial Bound Rate Ad Valorem Equivalent* - to be completed by Cape Verde

Final Bound Rate Offer - to be completed by Cape Verde

Final Bound Rate Ad Valorem Equivalent* - to be completed by Cape Verde

Implementation - to be completed by Cape Verde

* **Ad Valorem Equivalents** – For all specific, compound, or alternative minimum rates, please provide the ad valorem equivalent (AVE) tariff rate for each tariff line. You will note that we have inserted an additional column in the template file where Cape Verde can provide its AVEs. We ask that the Initial Bound Rate Offer and Final Bound Rate Offer columns include the full tariff rate, be it ad-valorem, specific, or alternative minimum. In the columns marked “Initial Bound Rate Offer AVE” and “Final Bound Rate Offer AVE”, we ask that Cape Verde provide only ad-valorem or ad-valorem equivalent rates. For example, if the “Initial Bound Rate Offer Full” column contains 5 *euro per kg*, the “IBR Offer AVE only” may contain, 10%. Thus, every line should have a rate in **both** columns.

In addition, we have noted the following technical problems with regard to Cape Verde's tariff schedule:

Missing applied rates: There are approximately three tariff lines that do not have a tariff rate that corresponds to the national tariff line. In order to proceed with bilateral tariff negotiations, it is important that Cape Verde provide current applied tariff rates for all

products. The following HS codes are examples of tariff lines with no corresponding applied tariff rate:

- 48023000
- 85409100
- 01060011

Do the applied rates contained in the tariff schedule apply in 2003? Have they changed in 2004?

HS codes with more than one applied rate: Please clarify that Cape Verde applies their tariffs at the HS8 level. The following are examples of tariff lines with 2 associated applied rates:

- a. 39232900
- b. 44219090

Missing tariff numbers: There are also approximately 16 product descriptions and tariff rates that do not have a corresponding HS code. Please provide tariff numbers for these products and confirm the MFN applied rates for these products. The following list contains examples of those product descriptions that have tariff rates assigned but no HS code.

- Having a power handling capacity not exceeding 650 KVA – applied rate = 5 percent
- Pigments and preparations based on titanium dioxide – applied rate = 0

Missing tariff numbers and tariff rates: In addition, there are a number of descriptions in Cape Verde's tariff schedule without HS codes or tariff rates. Please advise if these products appear in Cape Verde's schedule and what the corresponding HS codes and applied rates should be. The following description is an example of those descriptions with no associated HS code or tariff rate:

- c. Microwaves tubes (for example, magnetrons, klystrons, traveling wave tubes, carcinotrons), excluding grid controlled tubes
- d. Of cylinder capacity exceeding 1,500cc, but not exceeding 3,000 cc

Incorrectly classified HS numbers: Cape Verde's classification of beer in 2206 is incorrect - the international harmonized system places this product in 2203. Could Cape Verde provide the English translation for the product description listed in 22030010 (- Acondicionado em recipientes de capacidade não superior a 50cl)

Duplicate HS codes: There appears to be some duplicate HS codes in Cape Verde's schedule. For example:

- ☞ There are two products in 220890 with the same 8-digit HS code (22809000): “- Sugar cane rum” and “- Others.”
- ☞ There are three products in 190590 with the same 8-digit HS code (19059000): “- Bread, pastry, cakes, biscuits and similar baked products, and puddings, whether or not containing chocolate, fruit, nuts or confectionery,” “- Corn chips and similar crips savory snack foods,” and “- Others.”

2. INRs: Initial negotiating rights (INRs) at the final binding level will be requested on all items where concessions result from a request.

(draft.22.march.04)

Annex D – Services Request by the United States

REQUEST BY THE UNITED STATES FOR GATS COMMITMENTS BY CAPE VERDE

Note: This request is comprised of two documents, a request on non-financial services and insurance, and a request on banking, securities, and other financial services (excluding insurance).

REQUEST ON INITIAL COMMITMENTS IN NON-FINANCIAL SERVICES AND INSURANCE

This request is made in accordance with the rules governing the scheduling of commitments under the General Agreement on Trade in Services and the Decision on Accession of Least Developed Countries (WT/L/508). Specifically, under Article XVI ("Market Access"), when a Signatory lists a sector or subsector in its Schedule of Commitments, it will introduce no conditions or limitations to market access, as defined by the Article, when it inserts the word "None" in each of the four modes of delivery specified in the Article. The modes of delivery are:

- Mode One: provision of the service from the foreign country to the signatory country;
- Mode Two: the ability of consumers in the signatory country to purchase services in foreign countries;
- Mode Three: the ability of a foreign service provider to establish a commercial presence in the signatory country; and
- Mode Four: the ability of natural persons to enter the signatory country on a temporary basis to provide a service.

Similar rules govern the national treatment provision, Article XVII. In assuming obligations in each of the modes, the Article setting forth the definitions of these terms (Article XXVIII) is particularly relevant.

This request is structured on the assumption that when a sector or subsector is provided in the schedule, the United States is requesting that Cape Verde would enter no conditions or limitations to market access or national treatment in each mode of delivery unless it is otherwise indicated. The result is that in some instances, the commitment would represent a "standstill" of the existing regulatory situation, while in others, changes to measures affecting the sector would be called for.

In a few instances, commitments of a horizontal nature are made in the headnote to a Signatory's Schedule, in which case the commitment applies to all sectors listed in the Schedule of Commitments. In this regard, the United States request of Cape Verde will be confined to the temporary entry of natural persons and would assume that such an entry will satisfy the fourth mode of delivery under market access for all listed sectors.

1. HEADNOTE TO SCHEDULE: TEMPORARY ENTRY OF NATURAL PERSONS

Sector or Subsector: All Sectors

Market Access:

Services Salespersons- Persons not based in Cape Verde and receiving no remuneration from a source located in Cape Verde, who are engaged in activities related to representing a services supplier for the purpose of negotiating for the sale of the services of that supplier.

Intra-corporate Transferees- Managers, executives, and specialists, who are employees of firms that provide services within Cape Verde through a branch, subsidiary, or affiliate established in Cape Verde and who have been in the prior employ of their firm outside of Cape Verde.

National Treatment: Unbound

2. SECTORS

I. Professional Services

1. Legal Consultancy (Consultancy on law of the jurisdiction where the service supplier is qualified as a lawyer and on international law)

Market Access: No restrictions, except for reasonable and non_discriminatory licensing requirements

National Treatment: No restrictions

2. Accounting and Auditing

Market Access: No restrictions, except for reasonable and non_discriminatory licensing requirements

National Treatment: No restrictions

3. Taxation Services

Market Access: No restrictions

- National Treatment: No restrictions
4. Architectural Services
- Market Access: No restrictions, except for reasonable and non_discriminatory licensing requirements
National Treatment: No restrictions
5. Engineering Services
- Market Access: No restrictions, except for reasonable and non_discriminatory licensing requirements
National Treatment: No restrictions
6. Computer and Related Services (for definition, see MTN.GNS/W/120 a-e, except airline computer reservation systems)
- Market Access: No restrictions
National Treatment: No restrictions
7. Rental Leasing Services Without Operators Relating to Aircraft
- Market Access: No restrictions
National Treatment: No restrictions
8. Advertising
- Market Access: No restrictions
National Treatment: No restrictions
9. Management Consulting and Services Related to Management Consulting
- Market Access: No restrictions
National Treatment: No restrictions
10. Services Incidental to Mining
- Market Access: No restrictions
National Treatment: No restrictions
11. Related Scientific and Technical Consulting (except land surveying for the purpose of establishing legal boundaries, aerial surveying, and aerial mapmaking)
- Market Access: No restrictions
National Treatment: No restrictions

12. Maintenance and Repair of Equipment (Excluding maritime vessels, aircraft or other transport equipment)

Market Access: No restrictions

National Treatment: No restrictions

13. Publishing (see "printing and publishing" under MTN.GNS/W/120)

Market Access: No restrictions

National Treatment: No restrictions

14. Convention Services

Market Access: No restrictions

National Treatment: No restrictions

II. Communications Services

1. Land-Based Courier Services

Market Access: No restrictions

National Treatment: No restrictions

2. Enhanced or Value-added Telecommunications Services (includes electronic mail, voice mail, on-line information and data base retrieval, electronic data interchange, value-added facsimile services, code and protocol conversion, on-line and/or data processing services)

Market Access: No restrictions

National Treatment: No restrictions

3. Basic Telecommunications Services (includes fixed and mobile voice and data telecommunications services and facilities)

Market Access: No restrictions

National Treatment: No restrictions

Additional Commitment: Adoption of Group on Basic Telecommunications

Reference Paper on Regulatory Commitment

Inclusion of note for transparency: Commitments are taken consistent with "Notes for Scheduling Basic Telecom Services Commitments" (S/GBT/W/2/REV.1) and "Market Access Limitations on Spectrum Availability" (S/GBT/W/3)

According to the Group on Basic Telecommunications' Note by the Chairman on Scheduling (S/GBT/W/2/Rev. 1 of January 16, 1997), unless otherwise noted in the sector column, any basic telecom service listed in the sector column:

- (a) encompasses local, long distance and international services for public and non-public use;
- (b) may be provided on a facilities-basis or by resale; and
- (c) may be provided through any means of technology (e.g., cable⁵, wireless, satellites).

Basic telecom service subsector (g) -- private leased circuit services -- involves the ability of service suppliers to sell or lease any type of network capacity for the supply of services listed in any other basic telecom service subsector unless otherwise noted in the sector column. This would include capacity via cable, satellite and wireless network.

- 4. Audiovisual Services (Motion Picture and home video entertainment production and distribution services, motion picture projection services, radio and television (not including transmission services), sound recording services)

Market Access: No restrictions

National Treatment: No restrictions

III. Construction and Related Engineering Services

Market Access: No restrictions

National Treatment: No restrictions

IV. Wholesale and Retail Trade

Market Access: No restrictions

National Treatment: No restrictions

V. Franchising

Market Access: No restrictions

National Treatment: No restrictions

VI. Educational Services

Market Access: No restrictions

National Treatment: No restrictions

VII. Environmental Services

⁵Including all types of cable.

Note: Commitments would be for the following activities: Waste Water Management; Solid/Hazardous/Waste Management (Refuse Disposal services, Sanitation and similar services); Protection of ambient air and climate; Remediation and cleanup of soil and water (Treatment, Remediation of contaminated/polluted soil and water); Noise and Vibration abatement (Noise abatement services); Protection of biodiversity and landscape (Nature and landscape protection services); and Other Environmental and ancillary services (Other services not classified) elsewhere .

Market Access: No restrictions
National Treatment: No restrictions

VIII. Financial Services

1. Insurance

a. Direct Insurance (Life and Non-Life including property/casualty)

Market access: Bound for second and third mode of delivery
National Treatment: Bound for second and third mode of delivery

- b. Insurance Brokerage and Agency Services**
- d. Reinsurance**
- e. Marine, Aviation and Transportation insurance**
- f. Consultancy, actuarial, risk assessment, claim settlement.**

Market Access: No restrictions
National Treatment: No restrictions

2. Other Financial Services

Please see following U.S. request in Banking, Securities, and Other Financial Services.

IX. Hospital and Other Health Care Facilities (direct ownership and management and operation by contract of such facilities on a "for fee" basis)

Market Access: Bound for second and third modes of delivery
National Treatment: Bound for second and third modes of delivery.

X. Tourism and Travel Related Services

1. Hotels

2. Travel Agencies and Tour Operators
3. Other

Market Access: No restrictions
National Treatment: No restrictions

XI. Transportation

1. Aircraft repair station services, during which an aircraft is withdrawn from service

Market Access: Bound for second and third modes of delivery
National Treatment: Bound for second and third modes of delivery.

2. Road Transport-Freight Transport of cargo that has either an origin or a destination outside of Cape Verde

Market Access: No restrictions
National Treatment: No restrictions

REQUEST ON INITIAL COMMITMENTS IN BANKING, SECURITIES, AND OTHER FINANCIAL SERVICES (EXCLUDING INSURANCE)

First, we seek a description of the current financial services sector, including reference to the substance of any current measures or those planned in the near future, that would apply to foreign institutions seeking to provide financial services. This should include any discretionary investment authorizations, reciprocity measures, or discriminatory practices involved in privatization, in addition to other measures inconsistent with the provisions on market access, national treatment, and MFN of the General Agreement on Trade in Services (GATS).

Second, we seek your response to the U.S. requests set forth below, indicating what measures or practices would be bound in an agreement. This should include the prospects, or timing, for adopting and implementing any new measures required. In framing these replies, please refer to the definitions of particular financial services as set forth in paragraph 5 of the Financial Services Annex to describe sectors where any limitations would apply. It would be helpful to our understanding if you could provide a draft schedule of commitments.

Since countries can schedule their commitments in financial services according to the Understanding on Financial Services as an alternative to the GATS Framework, please indicate the basis on which your country's commitments to market access and national treatment would be scheduled.

Nothing in the following requests is intended to imply a limitation on the right to take measures for prudential reasons, as set forth in paragraph 2 (Domestic Regulation) of the Financial Services Annex.

Commitments requested:

1. Make commitments that bind the financial sector (excluding insurance) by listing only “Banking, Securities, and other Financial Services (excluding Insurance)” or by listing all of the financial services set forth in paragraph 5(Definitions) of the Annex on Financial Services.
2. Limitations on market access and national treatment should not deny substantially full market access and national treatment. Such limitations should be no more restrictive than current practice.
3. Adopt and implement laws, regulations or practices as necessary to make a binding commitment to allow:
 - a. a non-resident financial service provider to provide cross-border into the territory of your country, at a minimum, advisory and other auxiliary financial services as defined by item "(xvi)" of paragraph 5(a) of the Financial Services Annex Definitions, and the provision and transfer of financial information, and financial data processing as defined by item "(xv)" of the Annex Definitions;
 - b. residents of your country to purchase financial services in the territory of another party;
 - c. a non-resident financial service provider the opportunity to establish and expand a commercial presence in your country as a branch, an agency, a representative office, and as a wholly-owned subsidiary, either through *de novo* investment or through acquisition of existing enterprises, under terms and conditions of authorization that accord national treatment;
 - d. a foreign-owned financial service provider established in your country the opportunity to compete to supply financial services on terms and conditions that are no less favorable than those applied to financial service providers of your country in like circumstances. This would include the opportunity to participate in any self-regulatory body, securities or futures exchange or market, clearing agency or any other organization or association, as well as the opportunity to benefit from any other privileges or advantages that are by law or in practice necessary in order to provide financial services on an equal basis with financial service providers of your country.
4. A horizontal matter of the temporary entry of personnel of services providers is of particular concern as it pertains to financial services. We request that you allow temporary entry of the personnel of a financial services provider that is

establishing or has established a commercial presence in your country, including senior managerial personnel and specialists in the operation of the financial service supplier.